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Frank Storino and Anthony Storino

JENKINSON'S PAVILION; ANTHONY	:	
STORINO AND FRANK STORINO	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiffs,	:	OCEAN COUNTY
	:	
vs.	:	Docket No.
	:	
BOROUGH OF POINT PLEASANT	:	<u>Civil Action</u>
BEACH; MAYOR AND COUNCIL OF THE	:	
BOROUGH OF POINT PLEASANT	:	
BEACH; POLICE DEPARTMENT OF THE	:	VERIFIED COMPLAINT
BOROUGH OF POINT PLEASANT	:	AND JURY DEMAND
BEACH; PAUL M. KANITRA,	:	
Individually and in his	:	
capacity as the Mayor of The	:	
Defendant, Borough of Point	:	
Pleasant Beach; CARYN BYRNES,	:	
Individually, and in her	:	
capacity as a Councilwoman;	:	
ARLENE TESTA, Individually and	:	
in her capacity as a	:	
Councilwoman; DOUGLAS VITALE,	:	
Individually and in his	:	
Capacity as a Councilman, and	:	
KEVIN B. RIORDAN, Individually	:	
and in his capacity as the	:	
Borough Attorney for the	:	
Defendant,	:	
Borough of Point Pleasant	:	
Beach.	:	
	:	
Defendant.	:	

Plaintiffs Jenkinson's Pavilion, Anthony Storino and Frank Storino by way of Verified Complaint and Jury Demand against the named Defendants, says as follows:

THE PARTIES:

1. Plaintiffs Jenkinson's Pavilion (hereinafter "Jenkinson's") is a business entity owned by Plaintiffs Anthony Storino and Frank Storino. Jenkinson's the business entity privately owns Jenkinson's Aquarium, Jenkinson's Pavilion Bar and Restaurant complex, and most of the beachfront area and beach itself along the Atlantic Oceanfront in Defendant Municipality Point Pleasant Beach, New Jersey. Only a very small portion of the beachfront area and beach are owned by the Borough of Point Pleasant Beach operated as a Municipal Beach. This Plaintiff's primary place of business is located at 300 Ocean Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

2. Plaintiff Anthony Storino is a co-owner of Plaintiff Jenkinson's. This Plaintiff's primary place of business is located at 300 Ocean Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

3. Plaintiff Frank Storino is a co-owner of Plaintiff Jenkinson's. This Plaintiff's primary place of business is

located at 300 Ocean Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

4. Defendant Borough of Point Pleasant Beach is a municipal corporation of the State of New Jersey located in Ocean County, New Jersey. This Defendant is a "... *person* ..." who was at all times relevant acting "... *under color of state law* ..." and in accordance with and in furtherance of an "... *ordinance, regulation, custom, or usage . . .*" and to at all times acted "... *with deliberate indifference to Plaintiffs' rights* ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A.10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

5. Defendant Mayor and Council of the Borough of Point Pleasant Beach is the elected governmental body of the Defendant Borough of Point Pleasant Beach. This Defendant is a "... *person* ..." who was at all times relevant acting "... *under color of state law* ..." and in accordance with and in furtherance of an "... *ordinance, regulation, custom, or usage . . .*" and to at all times acted "... *with deliberate indifference to Plaintiffs' rights* ..." and to at all times acted as part of an ongoing

knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A. 10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

6. Defendant Police Department of the Borough of Point Pleasant Beach is a department of Defendant Borough of Point Pleasant Beach. This Defendant is a "... person ..." who was at all times relevant acting "... under color of state law ..." and in accordance with and in furtherance of an "... ordinance, regulation, custom, or usage . . ." and to at all times acted "... with deliberate indifference to Plaintiffs' rights ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A.10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

7. Defendant Paul M. Kanitra is sued both (a) individually and (b) in his capacity as the Mayor of the defendant Borough of point Pleasant Beach. This Defendant is a "... person ..." who was at all times relevant acting "... under color of state law

..." and in accordance with and in furtherance of an "... ordinance, regulation, custom, or usage . .." and to at all times acted "... with deliberate indifference to Plaintiffs' rights ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A. 10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

8. Defendant Caryn Byrnes is sued both (a) individually and (b) in her capacity as a Councilwoman the defendant Borough of Point Pleasant Beach. This Defendant is a "... person ..." who was at all times relevant acting "... under color of state law ..." and in accordance with and in furtherance of an "... ordinance, regulation, custom, or usage . .." and to at all times acted "... with deliberate indifference to Plaintiffs' rights ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A. 10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

9. Defendant Arlene Testa is sued both (a) individually and (b) in her capacity as a Councilwoman of the defendant Borough of point Pleasant Beach. This Defendant is a "... person ..." who was at all times relevant acting "... under color of state law ..." and in accordance with and in furtherance of an "... ordinance, regulation, custom, or usage . .." and to at all times acted "... with deliberate indifference to Plaintiffs' rights ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A. 10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

10. Defendant Douglas Vitale is sued both (a) individually and (b) in his official capacity as a Councilman of the Defendant Borough of Point Pleasant Beach. This Defendant is a "... person ..." who was at all times relevant acting "... under color of state law ..." and in accordance with and in furtherance of an "... ordinance, regulation, custom, or usage . .." and to at all times acted "... with deliberate indifference to Plaintiffs' rights ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse

power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A. 10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

11. Defendant Kevin B. Riordan is sued both (a) individually and (b) in his capacity as the Borough Attorney of the Defendant Borough of Point Pleasant Beach. This Defendant is a "... person ..." who was at all times relevant acting "... under color of state law ..." and in accordance with and in furtherance of an "... ordinance, regulation, custom, or usage" and to at all times acted "... with deliberate indifference to Plaintiffs' rights ..." and to at all times acted as part of an ongoing knowing, intentional and conscious conspiracy to violate Plaintiffs' rights and by design and plan to intentionally abuse power to harm Plaintiffs, all within the meaning of 42 U.S.C. §1983 and N.J.S.A. 10:6-2. This Defendant's primary place of business is located at 416 New Jersey Avenue in the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey.

THE FACTS:

12. At issue here in this action is the legal authority of the Borough of Point Pleasant Beach to enact and enforce, and the overall validity and legality of, certain portions of newly enacted "ORDINANCE 2020-12, An Ordinance of the Borough of Point

Pleasant Beach Amending Chapter XXI, Beaches of the Revised General Ordinances of the Borough of Point Pleasant Beach" **(hereinafter the "New Ordinance")** which was adopted into law by the Mayor and Council (there was a 3/3 vote split on the Council, so the Mayor cast the deciding "Yes" vote) on August 4, 2020. **(A true copy of the "New Ordinance" is attached hereto at "Exhibit A".)**

13. Prior to the 2020 Summer Season, the prior long existing form of Ordinance **(hereinafter the "Old Ordinance")** governing the Public Beaches was found in Borough of Point Pleasant Beach Ordinance §21-1.1 through -1.3 and §21-1A.1 through -1A.8. **(A true copy of the "old" Ordinance is attached hereto at "Exhibit B".)**

14. Significantly, in the Old Ordinance §21-1A.8 listed in paragraphs (a) through (n) a variety things which were designated as "Prohibited Acts", with the section stating that: "No Person shall do any of the following things at or upon the municipal beach. (Emphasis added). Contained within that section was paragraph (e), (l) & (m) which each previously read as follows:

§21-1A.8 Prohibited Acts.

No person shall do any of the following things at or upon the municipal beach:

3. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.

- e. Take any intoxicating liquor upon the beach, or any glass containers or bottles.

1. Bring any of the following onto the Beach:

1. Coolers larger than 24 inches in width, or height and/or has a capacity greater than 36 quarts.
2. Serving trays, warming trays, pots, pans, devices, equipment or utensils utilized for the preparation or storage of food.
3. Canopy style sun shades bigger than 10' x 10' and any size canopy style sunshade with sidewalls including tents and tent clusters.
4. Devices designed or used to shade infants and small children, also known as "baby tents," larger than 36 inches high by 36 inches wide by 36 inches deep.
5. Umbrellas with a collapsible circular shade greater than eight feet diameter or radiating from a center pole greater than 7 feet 6 inches in height, or with grounding lines, ropes, or sides.
6. Umbrellas, baby tents and canopies anchoring lines, tethers, or the like that extended beyond the perimeter of the umbrella, the baby tent or canopy.
7. Tables or stands or boards or other devices positioned to function as a table.

m. Cook on the Beach.

[See Old Ordinance at "Exhibit B", §21-1A.8(e), (l) & (m)].

15. The New Ordinance dramatically changes the long existing "status quo" and with little or no advance notice suddenly expanded the scope of the Old Ordinance from regulating only the municipal beach, to now purportedly regulating *all beaches*, specifically including now for the first time ever regulating Plaintiff Jenkinson's private property beach. The New Ordinance accomplishes this simply by amending the new "Prohibited Acts" section of the existing Ordinance's definition of "beach" to now read in particular relevant part:

§21-1.4 Prohibited Acts.

No person shall do any of the following things at or upon the

Boardwalk and/or beaches or the ocean waters located in the Borough.

3. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.

5. Take any intoxicating liquor upon the beach, or any glass containers or bottles.

2. Bring any of the following onto a Beach:

3. Coolers larger than 13 inches in width, or length, or height and/or has a capacity greater than nine (9) quarts.

[See New Ordinance at "Exhibit A", §21-1.4].

16. In what is quite clearly an illegal exercise of power the Defendants have now suddenly changed the definition of

"beach" to include ALL beaches, including private property beaches, and with literally no legal authority to do so, have illegally extended municipal regulatory jurisdiction now over all private property beaches and declared that it is illegal for adults over the age of 21 years to bring, possess and consume alcohol onto Jenkinson's private property beach and it is all but illegal to make any noise or play any music on Jenkinson's private property beach. See New Ordinance at "Exhibit A", §21-1.4(3) & (5). This is clearly something that is beyond the Defendants' lawful authority to regulate and prohibit. The Defendants have no authority to regulate Jenkinson's private property beach, yet they seek to do so and have even done things so with petty and illegal micro managing of Jenkinson's private property beach as to arbitrarily reduced the size of permitted coolers on "beaches" (formerly just *municipal* beaches) from a maximum of 24 inches in width and height and maximum of 36 quarts (9 gallon cooler), see Old Ordinance at "Exhibit B", §21-1A.8(1)(1), to now a maximum of 13 inches in width, height and length and a maximum of 9 quarts (2.25 gallon cooler). See New Ordinance at "Exhibit A", §21.4(2)(3). Moreover, regarding the alcohol issue and reduced size of coolers, the Defendants have enacted an entirely new section §21-1.2B which (illegally) places a new affirmative legal obligation on Plaintiff Jenkinson's to hire only persons 18 years or older who are also now purportedly

affirmatively required to actually "physically search" all patrons and their possessions as they enter the private beach to ostensibly search for alcoholic beverages (which are perfectly legal on this private property beach) and for other "contraband", all without a search warrant. Lastly, the new Ordinance purports to confer "policing" authority on local municipal police to "police" the private property beach, taking for themselves the right to have police officers not merely come when called, but to entry at will onto this private property beach and to walk amongst and "police" the beach patrons down on the sand on this private beach, again doing so with no authority to confer such authority on themselves or their municipal police department. See New Ordinance at "Exhibit A", §21-1.5.

CAUSES OF ACTION:

FIRST COUNT:

(Federal Civil Rights Act - 42 U.S.C. §1983)

18. Plaintiffs hereby repeat and re-allege the previous allegations of this pleading as if same were set forth herein again fully at length.

19. The Fourth Amendment to the United States Constitution provides as follows:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures,

shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[United States Constitution, Fourth Amendment].

20. The Fourth Amendment is made applicable to the States generally and to State actors such as the Defendants named herein specifically by virtue of the Fourteenth Amendment to the United States Constitution.

21. The Section 1 of the Fourteenth Amendment of the United States

Constitution provides as follows:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

[United States Constitution, Fourteenth Amendment, Section 1].

22. Both the Fourth and Fourteenth Amendments to the United States Constitution operate to recognize specific private

property rights that were retained by the people and specifically excluded from government interference.

23. The Fourth Amendment operates to specifically prohibit the State or State Actor Government Officials from entering onto private property without a Warrant issued by a Judge upon a finding of "probable cause" that something illegal has occurred.

24. The Fourth Amendment equally operated to specifically prohibit the State or State Actor Government Officials from entering onto private property without permission or a warrant and from conducting arbitrary government warrantless searches of people.

25. The Fourteenth Amendment operates to specifically prohibit State or State Actor Government Official from taking any action, regulatory or otherwise, which deprives any person or a "liberty interest" or a "property interest" without due process of law.

26. 42 U.S.C. §1983 was enacted by Congress to provide citizens with a remedy for state action that deprives or is aimed at depriving a person of their rights as secured and guaranteed by the United States Constitution and laws.

27. 42 U.S.C. §1983 provides as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or

usage, of any State or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person in the jurisdiction thereof to be deprived of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For purposes of this section any act of Congress applicable exclusively to the District of Columbia shall be considered a statute of the District of Columbia.

[42 U.S.C. §1983].

28. 42 U.S.C. §1983 provides a remedy for state action aimed at depriving persons of their rights as protected and guaranteed by the Constitution and laws. 42 U.S.C. §1983, in addition to other remedies, authorizes declaratory relief, injunctive relief, nominal damages, compensatory damages, punitive damages and attorneys fees.

29. For a party to prevail in an action under 42 U.S.C. §1983 it must be shown that (1) there has been / is / will be a violation of that party's rights is guaranteed and secured by the federal Constitution or laws, and (2) that such violation was caused either directly or by a pattern, practice, usage or custom, by a "person" acting under "color of state law".

30. In the present case, the collective defendants did knowingly and intentionally and / or with deliberate indifference

did conspire to violate and did in fact violate Plaintiffs' clearly established Federal rights aforesaid under color of state law proximately resulting in damage to Plaintiffs.

SECOND COUNT:

(New Jersey State Civil Rights Act - N.J.S.A. 10:6-1 and -2)

31. Plaintiffs hereby repeat and re-allege the previous allegations of this pleading as if same were set forth herein again fully at length.

32. Article I, paragraph 7 of the New Jersey State Constitution (1947) provides as follows:

7. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched in the papers and things to be seized.

[New Jersey State Constitution (1947), Article I, paragraph 7].

33. Article I, paragraph 20 of the New Jersey State Constitution (1947) provides as follows:

20. Private property shall not be taken for public use without just compensation. Individuals or private

corporations shall not be authorized to take private property for public use without just compensation first made to the owners.

[New Jersey State Constitution (1947), Article I, paragraph 20].

34. Under the common law "Public Trust Doctrine" the public's ownership and rights to access and use of all tidal waterways and their shores for a variety of public leisure activities in addition to fishing are held by the State of New Jersey in trust for the benefit of all people. Effective May 3, 2019, the "Public Trust Doctrine" has now been codified by the New Jersey State

Legislature into positive statutory law. See *Public Law 2019, Chapter 81*.

35. In such new law the State Legislature has specifically and unambiguously made clear that they have designated the New Jersey Department of Environmental Protection ("DEP") as the State entity with "... the authority and the duty to protect the public's right of access to tidally flowed waters and their adjacent shorelines under the public trust doctrine and statutory law." See *Public Law 2019, Chapter 81, Section 1, paragraph d*.

36. As previously noted, the Fourth Amendment to the United States Constitution operates to specifically prohibit the State or State Actor Government Officials from entering onto private

property without permission or a warrant and from conducting arbitrary government warrantless searches of people.

36. As previously noted, the Fourteenth Amendment to the United States Constitution operates to specifically prohibit State or State Actor Government Official from taking any action, regulatory or otherwise, which deprives any person or a "liberty interest" or a "property interest" without due process of law.

37. On September 10, 2004 then New Jersey Governor James E. McGreevy signed into law the "New Jersey Civil Rights Act" ("CRA"), Public Law 2004, Chapter 143, now codified at N.J.S.A. 10:6-1 and 10:6-2. The CRA was designed as a "... State analog of the federal civil rights statute

codified at 42 U.S.C. §1983..." and was not intended to "... create any new substantive rights." See Governor's Statement on Signing Assembly Bill No. 2073 (September 10, 2004).

38. N.J.S.A. 10:6-2 provides in part relevant to this case as follows:

- c. Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose

exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

- d. An action brought pursuant to this act may be filed in the Superior Court. Upon application of any party, a jury trial shall be directed.
- e. Any person who deprives, interferes or attempt to interfere by threats, intimidation or coercion with the exercise or enjoyment by any other person of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State is liable for a civil penalty for each violation. The court or jury, as the case may be, shall determine the appropriate amount of penalty. Any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund.
- f. In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the

prevailing party reasonable attorney's
fees and costs

[N.J.S.A. 10:6-2(c), (d), (e) & (f)].

39. The CRA authorizes any "person" who has been deprived of Federal or State rights by a person acting "under color of state law " to bring a private cause of action for damages, civil penalties and injunctive relief. N.J.S.A. 10:6-2(c) & (e). Jurisdiction is vested in the Superior Court to hear such claims, and there is a specific statutory right to a jury trial and to have a jury determined damages to be paid to the Plaintiff. N.J.S.A. 10:6-2(e). Civil Penalties assessed are not to be paid to the plaintiff but rather are payable instead to "... the State Treasurer for deposit into the State General Fund." N.J.S.A. 10:6-2(e). A prevailing party is entitled to an additional award of "... reasonable attorneys fees and costs." N.J.S.A. 10:6-2(f). 41. In *Owens v. Feigin*, 194 N.J. 607, 611 (2008), the New Jersey Supreme Court ruled that given the "... broad remedial purpose of the CRA ..." That the Title 59 Tort Claims Act's "Notice of Claim" requirement was inapplicable to statutory private causes of action for relief under N.J.S.A. 10:6-2(c)). Moreover, in a pair of companion cases the New Jersey Supreme Court ruled that a private cause of action under the CRA may be pursued only against persons who were acting "under color of

state law." *Perez v. Zagami, LLC*, 218 N.J. 202 (2014); *Cottrell v. Zagami, LLC*, 217 N.J. 424 (2014).

40. For a private Plaintiff to affirmatively impose liability on a wrongdoer, the private plaintiff must demonstrate that he or she has either been:

- (1) ... *deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State*
...;

OR, that his or her:

- (2) ... *Exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law ...[.]*

[N.J.S.A. 10:6-2(c)].

41. In the present case, the collective defendants knowingly and intentionally and / or with deliberate indifference did conspire to violate and did in fact violate Plaintiffs' clearly established Federal and State rights aforesaid under color of state law proximately resulting in damage to Plaintiffs.

THIRD COUNT:
(Ultra Vires)

42. Plaintiffs hereby repeat and re-allege the previous allegations of this pleading as if same were set forth herein again fully at length.

43. The challenged portions of the New Ordinance are illegal and invalid and unauthorized as *ultra vires* as not falling within the express specific enumerated grants of authority in N.J.S.A.40:48-1 and N.J.S.A.40:48-1.2 or elsewhere and beyond the police powers conferred in N.J.S.A.40:48-2 or elsewhere and fall outside of any implied delegation of authority.

44. Plaintiffs have been proximately damaged by the wrongful actions of the

Defendants.

FOURTH COUNT:
(Statutory "Pre-Emption by Exclusion")

45. Plaintiffs hereby repeat and re-allege the previous allegations of this pleading as if same were set forth herein again fully at length. The challenged portions of the New Ordinance are illegal as being a violation of N.J.S.A. 2C:1-5(d) and the statutory doctrine of "Pre-Emption by Exclusion".

46. Plaintiffs have been proximately damaged by the wrongful actions of the Defendants.

FIFTH COUNT:
(Common Law ("Judicial") Pre-Emption)

47. Plaintiffs hereby repeat and re-allege the previous allegations of this pleading as if same were set forth herein again fully at length.

48. The challenged portions of the New Ordinance are invalid as they violate the general doctrine of Pre-Emption ("Judicial Pre-Emption") announced in

Overlook Terrace Management Corporation v. Rent Control Board of West New York, 71 N.J. 451 (1976).

49. Plaintiffs have been proximately damaged by the wrongful actions of the Defendants.

SIXTH COUNT:
(Arbitrary, Capricious and Unreasonable")

50. Plaintiffs hereby repeat and re-allege the previous allegations of this pleading as if same were set forth herein again fully at length.

51. The challenged portions of the New Ordinance are arbitrary, capricious and unreasonable and are therefore invalid for such reasons.

52. Plaintiffs have been proximately damaged by the wrongful actions of the Defendants.

WHEREFORE, Plaintiffs demand judgment against Defendants individually, jointly or severally as follows:

A.) Judgment pursuant to the authority of 42 U.S.C. §1983 (Federal Civil Rights

Act), N.J.S.A. 10:6-1 and -2 (New Jersey State Civil Rights Act), N.J.S.A.

2A:16-51 et seq. (New Jersey Declaratory Judgments Act), R. 4:52-2 and R.

4:69-3 Declaring that the New Ordinance is facially, and as applies to Plaintiffs and their Private Property Beach:

(1) Is a violation of Plaintiffs Fourth and Fourteenth Amendment Federal Constitutional rights in violation of 42 U.S.C. §1983 (Federal Civil Rights Act); and alternatively or cumulatively,

(2) Is a violation of Plaintiffs Fourth and Fourteenth Amendment

Federal Constitutional rights, and a violation of Article I

paragraphs 7 & 20 of the New Jersey State Constitution (1947) and a violation of Plaintiffs' statutory rights under the "Public Trust Doctrine", Public Law 2019, Chapter 81, all in violation of N.J.S.A. 10:6-1 and -2 (New Jersey State Civil Rights Act -

N.J.S.A. 10:6-1 and -2); and alternatively or cumulatively,

(3) Is illegal as an *ultra vires* exercise of the municipal governing authority delegated to Defendants by the State Legislature; and alternatively or cumulatively,

(4) Is a violation of N.J.S.A. 2C:1-5(d) and the statutory doctrine of "Pre-Emption by Exclusion"; and alternatively or cumulatively,

(5) Is a violation of the general doctrine of Pre-Emption ("Judicial Pre-Emption") announced in *Overlook Terrace Management Corporation v. Rent Control Board of West New York*, 71 N.J. 451 (1976); and alternatively or cumulatively,

(6) Is arbitrary, capricious and unreasonable; and

B.) Judgment pursuant to the authority of 42 U.S.C. §1983 (Federal Civil Rights

Act), N.J.S.A. 10:6-1 and -2 (New Jersey State Civil Rights Act), N.J.S.A.

2A:16-51 et seq. (New Jersey Declaratory Judgments Act), R. 4:52-2 and R. 4:69-3 entering a Permanent Injunction permanently restraining and enjoining and specifically


prohibiting the enforcement of any portions of the New Ordinance;

- C.)** Judgment pursuant to the authority of 42 U.S.C. §1983 (Federal Civil Rights Act), N.J.S.A. 10:6-1 and -2 (New Jersey State Civil Rights Act), and N.J.S.A. 2A:16-51 et seq. (New Jersey Declaratory Judgments Act) awarding nominal damages;
- D.)** Judgment pursuant to the authority of 42 U.S.C. §1983 (Federal Civil Rights Act), N.J.S.A. 10:6-1 and -2 (New Jersey State Civil Rights Act), and common law awarding compensatory damages;
- E.)** Judgment pursuant to the authority of 42 U.S.C. §1983 (Federal Civil Rights Act), N.J.S.A. 10:6-1 and -2 (New Jersey State Civil Rights Act), and common law awarding punitive damages;
- F.)** Judgment pursuant to the authority of N.J.S.A. 10:6-2(e) (New Jersey State Civil Rights Act) imposing an appropriate "Civil Penalty";
- G.)** Judgment pursuant to the authority of 42 U.S.C. §1988 (Federal Civil Rights Act), N.J.S.A. 10:6-2(f) (New Jersey

State Civil Rights Act) awarding costs and statutory prevailing party attorneys fees;

H.) Judgment awarding any other further relief as the Court deems fair, just and equitable;

Dated: 8/28/20



R. S. Gasiorowski, Esq.

DEMAND FOR JURY TRIAL:

Plaintiffs hereby demand a trial by jury on all contested issues of material fact.

Dated: 8/28/20



R. S. Gasiorowski, Esq.

REQUIRED CERTIFICATIONS:

R. S. Gasiorowski, Esq. hereby certifies as follows:

1. I am the attorney for the Plaintiffs in this matter and as such I am fully familiar with all facts relevant to this case.
2. Pursuant to R. 4:5-1, I certify that I know of no other actions or arbitration involving this same set of facts, none are contemplated, and I know of no other parties that should be joined.
3. I also certify that there is no personal identifier information otherwise requiring redaction contained in this pleading.

I certify that the foregoing statements made by me are true. I'm aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated:


R. S. Gasiorowski, Esq.

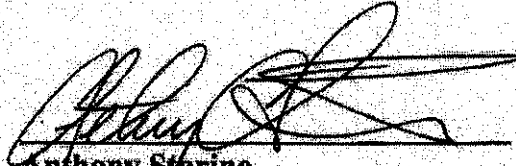
VERIFICATION:

Anthony Storino hereby certifies and verifies as follows:

1. I am a named Plaintiff in this matter and I am fully familiar with all facts relevant to this dispute generally and to this case specifically.
2. All facts alleged in this Verified Complaint and Jury Demand are true. All documents attached are true copies of the original documents.

I certify that the foregoing statements made by me are true. I'm aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 8/27/20


Anthony Storino

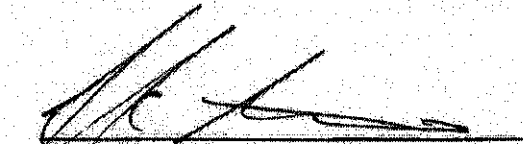
VERIFICATION:

Frank Storino hereby certifies and verifies as follows:

1. I am a named Plaintiff in this matter and I am fully familiar with all facts relevant to this dispute generally and to this case specifically.
2. All facts alleged in this Verified Complaint and Jury Demand are true. All documents attached are true copies of the original documents.

I certify that the foregoing statements made by me are true. I'm aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 8-27-2020


Frank Storino

“Exhibit A”

Questions about eCode360? Municipal users Join us Monday through Wednesday between

Note: Ordinance history includes Ord. Nos. 1984-6; 1984-32; 1986-2; 1994-21; 1997-11; 2008-53; Ord. No. 2017-15 deleted and replaced the entire chapter. Amendments noted where applicable.

§ 21-1 OCEANFRONT, BEACHES, OCEAN WATERS.

§ 21-1.1 Operating Season, Oceanfront and Ocean Waters Adjacent Thereto.

Unless determined otherwise by a resolution of the Borough Council, the general operating season shall commence on May 1 and continue through October 15. During the operating season all persons using the oceanfront and the ocean waters adjacent thereto during operating hours shall obtain and display an appropriate beach badge.

§ 21-1.2 Operating Hours.

- a. Daily operating hours at the oceanfront during the operating season shall be as follows, except during inclement weather:
 1. Saturday, Sunday and Holidays: 9:00 a.m. to 6:00 p.m.
 2. Monday to Friday: 9:00 a.m. to 6:00 p.m.
- b. Oceanfront bathing is permitted only when lifeguards are on duty regardless of operating hours. No person shall enter the bay or ocean when lifeguards are not on duty.

§ 21-1.3 Closing Time.

All persons are restricted from remaining on the beaches after 6:00 p.m. except with special permission of the owner.

§ 21-1A MUNICIPAL BEACH.

§ 21-1A.1 Established.

A municipal beach is hereby established for the public health, recreation, bathing and entertainment.

§ 21-1A.2 Municipal Beach Delineated.

The area lying to the east of the street ends known as Maryland Avenue and Delaware Avenue and being commonly designated as the "Plaza" area and having an approximate depth of 110 feet by an ocean frontage of 450 feet.

§ 21-1A.3 Safeguards, Equipment and Facilities.

The municipality shall arrange for the acquisition, use, and maintenance of such safeguards, equipment and facilities as the Borough shall deem necessary for the proper establishment and maintenance of said place or resort for public health, recreation, bathing, and entertainment.

§ 21-1A.4 Lifeguards.

The Borough shall arrange for lifeguards as the Borough shall deem necessary for the proper maintenance of said municipal beach. The hours of lifeguards shall be as set by Resolution of the Governing Body.

§ 21-1A.5 Policing.

The Police in the municipality shall police said beach.

§ 21-1A.6 Fee for Use.

In order to provide funds to improve, maintain and police the municipal beach and to protect the same from erosion, encroachment, damage by the sea, or otherwise, and to provide facilities and safeguards for public bathing and recreation, including the employment of lifeguards, reasonable fees shall be charged the person using said lands and bathing facilities for

access to the beaches and bathing and recreational facilities from May 1 to October 15. These fees shall be set by Resolution of the Governing Body.

§ 21-1A.7 (Reserved)

§ 21-1A.8 Prohibited Acts.

~~No person shall do any of the following things at or upon the municipal beach:~~

- a. Throw, drop, discard, dump, or leave any wastepaper, garbage, or other refuse, or in any way litter, make unsightly, damage, destroy or disfigure said beach, dune, water, or any public or private property.
- b. Sell, peddle or hawk any food, drink or confections.
- ~~c. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.~~
- d. Play ball, or ride or operate a surfboard, or engage in any other activity which will endanger another person or interfere with the enjoyment of the quiet use of the beach.
- ~~e. Take any intoxicating liquor upon the beach, or any glass containers or bottles.~~
- f. Take or permit his or her dog to be or go upon the beach or in the water at any public bathing beach; except that any dog under the control of a leash may utilize the municipal beach, and the approaches for access only, between October 1st and April 30th, between the hours of 8:00 a.m. and 3:00 p.m. of each year.
- g. Go into the water, or remain in the water:
 1. When it is unsafe to do so;
 2. When directed by a public lifeguard to come out of the water;
 3. When intoxicated;
 4. Farther than directed by a public lifeguard; or
 5. In violation of a reasonable order of a public lifeguard when the safety of the bather is or may be endangered by going into the water.
- h. Molest or disturb any person in the peaceful enjoyment of said beach, or bathing facilities.
- i. Refuse or neglect to obey the orders and directions of a public lifeguard as to time, place and distance for bathing, or interfere with or obstruct a Police Officer or lifeguard in the performance of his or her duty.
- j. Operate a privately owned beach buggy or other motor vehicle on the beach at any time.
- k. Pursuant to N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2, smoke or burn a lighted cigar, cigarette or pipe, including any handheld electronic device which vaporizes a liquid (e.g., e-cigarettes, e-cigs, electronic nicotine delivery systems, electronic non-nicotine delivery systems, personal vaporizers, PVs), or any other matter or substance which contains tobacco on any property owned by the Federal, State, County or local government east of the entrance to the Beach;
- ~~l. Bring any of the following onto the Beach:~~
 1. Coolers larger than 24 inches in width, or length, or height and/or has a capacity greater than thirty-six (36) quarts.
 2. Serving trays, warming trays, pots, pans, devices, equipment or utensils utilized for the preparation or storage of food.
 3. Canopy style sun shades bigger than 10' x 10' and any size canopy style sun shade with side walls including tents and tent clusters.

4. Devices designed or used to shade infants and small children, also known as "baby tents," larger than 36 inches high by 36 inches wide by 36 inches deep.
5. Umbrellas with a collapsible circular shade greater than eight feet diameter or radiating from a center pole greater than 7 feet 6 inches in height, or with grounding lines, ropes, or sides.
6. Umbrellas, baby tents and canopies anchoring lines, tethers, or the like that extend beyond the perimeter of the umbrella, the baby tent or canopy.
7. Tables or stands or boards or other devices positioned to function as a table.

~~m. Cook on the Beach.~~

~~n. Bring a drone onto or operate a drone on the Beach.~~

§ 21-2 REGULATION, PRESERVATION AND PROTECTION OF BEACHES AND DUNES.

§ 21-2.1 Findings, Declaration and Purpose.

- a. Although there may be no long term defense for fixed oceanfront structures against a constantly rising ocean level, effective protection of the oceanfront and adjacent coastal areas in the intermediate term against high tides and flooding and against damage by the ocean under storm conditions requires sufficient elevation and breadth in the beach and dune areas, hereinafter defined, to dissipate the force of the waves. The dunes should provide an uninterrupted barrier and a source of sand to mitigate the effect of storm waves for the benefit of the entire Borough - interior lands as well as oceanfront premises - and a beach for the recreational purposes of all. Accordingly, the Borough has a vital interest in the continued maintenance and protection of the beach and dune areas and in the right to cause their restoration in the event of damage or destruction.
- b. Dune areas are vulnerable to erosion by wind, water, the absence of good husbandry by those responsible for their maintenance and preservation, and by indiscriminate trespass, construction or other acts which might destroy or damage them.

A proven and available means of protecting dune areas against erosion is by preventing indiscriminate trespassing, construction or other acts which might destroy or damage them, and through the aggressive use of native plantings supplemented, when necessary, by sand fencing and other protective devices, or combinations thereof, designed to prevent the erosion of dune areas and to promote the root accumulations, normal contours and other features found in natural dune systems.
- c. The beach area and dune area are dynamic and are not capable of rigid definition or delineation, or of completely firm stabilization. They can and do migrate, so that particular sites, at one time free of dunes may, as the result of natural forces, become a part of the dune area declared to be in the interest of the Borough to protect. Persons owning, using or purchasing such property do so subject to the public interest therein.
- d. It is a purpose of this section to define the areas so affected and to establish regulations to assure their continued effectiveness.
- e. This section does not attempt to define and regulate all parameters of dune delineation, function or management and the Borough Council declares its intent to review and update this section periodically to reflect appropriately new and beneficial knowledge treating of such things as, but not limited to, upper driftline, elevated walkways and buildings setback requirements.
- f. This section is declared to be an exercise of the police power in the interest of safety and welfare for the protection of persons and property.

§ 21-2.2 Definitions.

For the purposes of this section, the following words shall have the meaning given herein.

- a. Beach area shall mean that area between the mean high water line of the Atlantic Ocean, in reference to the 1929 Sea Level Datum as established by the U.S. Coast and Geodetic Survey and the seaward edge of the dune as hereinafter defined.
- b. Seaward edge of dune shall be the line as identified on the adopted Dune Reference Map of the Borough. The line shall also be the easterly edge of the dune area as indicated on the adopted map.
- c. Upper driftline shall mean that line produced by the winter spring tides (highest tides of the year) which contains oceanic debris (flotsam such as seaweed, etc.) and the seeds, rhizomes, or detached plants which can germinate and/or grow to produce a zone of new dune vegetation.
- d. Landward edge of dune shall be the line as identified on the adopted Dune Reference Map of the Borough. The line shall also be the westerly edge of the dune area as indicated on the adopted map. The landward edge of dune shall also be the adopted 'Dune Reference Line'.
- e. Vegetation line shall mean that line connecting the most seaward naturally occurring perennial plants with other such plants.
- f. Dune area shall mean that area between the seaward edge of the dune and the landward edge of the dune.
- g. Beach area shall be all areas located easterly of the dune area as shown on the adopted Dune Reference Map.
- h. Setback line shall mean that line parallel to the dune reference line and located westwardly therefrom by the setback distances variously specified by Borough ordinance or maps or any subsequent modification thereof.
- i. Natural vegetation shall mean and include the terms "native vegetation" or "indigenous vegetation." Specifically, it shall include such plants as beachgrass (*Ammophila brevifolulata*), dusty miller (*Artemisia stelleriana*), sea rocket (*Cakile edentula*), seaside goldenrod (*Solidago sempervirens*), bayberry (*Myrica pensylvanica*), beach pea (*Lathyrus japonicus*), salt spray rose (*Rosa rugosa*), or seaside spurge (*Euphorbia polygonifolia*), which normally grow or may be planted on the slopes of dunes or behind them, no distinction being made as to how such plants are introduced into their location. Beach Plum shall be included as an acceptable plant.
- j. Walkway shall mean a constructed means of crossing the dune area in accordance with drawings approved by Borough Council and on file with the Borough Engineer.
- k. Sand fence shall mean and include the term "snow fence" of a barricade type established in a line or a pattern to accumulate sand and aid in the formation of a dune, such as:
 - 1. Picket type consisting of light wooden fence held together by wire and secured by posts; or
 - 2. Such other material as may be designed and approved for the purpose.
- l. Dune consultant shall mean an expert on dunes and their care retained by the Borough. In any periods during which no such expert is regularly retained, it shall mean such other person designated by Borough Council. This person shall serve at the pleasure of the mayor and council.
- m. Dune inspector shall mean that person designated by Borough Council and approval by the dune consultant. The dune inspector and dune consultant can be one in the same person or separate individuals as determined by Mayor and Council.

§ 21-2.3 Beach and Dune Areas; Regulations.

- a. The setback line from the Dune Reference Line (Landward edge of dune) is hereby established at ten feet. No construction activity whatsoever shall be permitted in the areas of the Borough east of said line as established on the adopted Dune Reference Map of the Borough of Point Pleasant Beach except as provided in paragraph c herein.
- b. The first floor of any new or rebuilt residence structure built east of Ocean Avenue within the Borough shall be at an elevation at least as great as that specified in the flood damage prevention ordinance or any subsequent modification thereof.
- c. No person shall be in the dune area unless:
 - 1. Upon an approved pathway, walkway or dune platform; or

2. In the performance of such activities as may be reasonably and necessarily required to construct or maintain the dune or allowed structures with the permission of the owner; or
3. For the purposes of enforcement of this section, the following shall apply:

Only one pathway or walkway across the dune area is permitted for each oceanfront residence. It shall run, generally, the shortest practical course between the residents and the seaward edge of the dune, and shall not exceed three feet in width. At street ends, wider pathways may be delineated by the Borough Engineer. In the event that any pathway or walkway shall be or become, in the opinion of the dune consultant, a substantial detriment to the development and maintenance of the continuous protective dune sought to be achieved by this section, the owner of the premises shall be subject to the provisions of paragraph I of this subsection.

In addition to the pathway or walkway, each oceanfront lot shall be allowed one dune platform not to exceed 200 square feet, situated within the dune area and specifically located and delineated by the owner of the premises. The dune platform shall, in all events, be maintained in the same fashion and subject to the same regulations as may govern the use of pathways and walkways. Dune platforms shall comply with such specifications as may hereafter be adopted by resolution of the Borough Council governing such structures.

- d. The removal, cutting, burning, or destruction of natural vegetation, sand fence or such other types of dune protection devices as may be approved by the Borough Council in the dune area is prohibited, except as necessary for construction authorized pursuant to paragraphs a and c.
- e. The removal and grading of sand from the beach area or dune area is prohibited unless an emergency has been declared in writing by virtue of a written memorandum from the dune consultant to the mayor and council consistent with all other governmental regulations governing the same.

During the time of such declared emergencies, grading of sand may take place only as directed and approved by the dune consultant.

- f. Any sand which is transported upon lands by action of wind, tides, storms or any combination thereof shall not be removed from the lot upon which it is deposited by such action if said sand is located east of the landward edge of the dune (Dune Reference Line). To the extent practicable, considering the utilization of the premises, such sand as may be affirmatively relocated by the owner upon the lot shall be moved eastwardly. Sand deposited upon any improved street ends shall be restored into the beach and dune area.
- g. One of the purposes of this section is to achieve the maintenance of sand dunes at the highest practical height. To this end, no dune shall be directly or indirectly lowered or reduced in height by the action or inaction of any owner or his agent. However, if any dune shall be or become lower than the elevation deemed materially significant by the dune consultant, applying recognized criteria, with due regard to the intent of this section and reasonable use of the premises, the owner thereof shall be obliged to install such sand fence and plantings as may be prescribed by the dune consultant. The owner shall have an obligation to maintain and replace, if necessary, these fences and plantings but shall not be obligated to take any other affirmative action, except as may be specified elsewhere in this section. If the dune is lowered or caused to be lowered by the direct or indirect action of any owner, then the dune shall, upon due notice to the owner, be restored its immediately pre-existing elevation by the owner or at his expense. The restored dune shall be planted and sand fenced in accordance with specifications promulgated under this section.
- h. In order to provide for effective protection and/or restoration of the dune area, each owner shall plant or cause to be planted in the dune area adjoining his property suitable vegetation and erect, or cause to be erected, suitable sand fencing all in accordance with such standards as may be recommended by the dune consultant and adopted by resolution of the Borough Council.
- i. The Borough dune inspector, and in his absence, the dune consultant and in all events the Borough Council shall enforce the affirmative duty of each oceanfront owner, as set forth in this section, by service of a written notice, certified mail return receipt requested, upon the record owner at his last known address as set forth in the Borough tax rolls, requesting specific compliance with these obligations concerning dune protection and/or restoration. The notice shall also advise that unless the owner shall take appropriate corrective action and complete the same within 30 days from the day of mailing said notice, the Borough may perform such acts of protection and/or restoration at the expense of the owner. Such expenditures by the Borough, if any, shall be due and payable upon demand. In the event that any such owner shall fail to pay, then the sum together with interest at the highest legal rate thereon shall become a lien upon the property and be collected in the same manner as delinquent real property taxes.

In addition to the action described above, the owner may, at the election of the enforcement officials or the Borough Council, be prosecuted for violation of this section in accordance with Subsection 21-2.4.

§ 21-2.4 Penalties.

- a. For any and every violation of this section, the owner of lands abutting the beach or dune area where such violation has been committed, or the trespasser if the violation is of Subsection 21-2.3 paragraph c, or any violator, shall for each and every violation be subject to a fine of not more than five hundred (\$500.00) dollars or 90 days in detention at the discretion of the court. Each and every day that such violation continues shall be considered a separate violation of this section.

“Exhibit B”

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk

ADOPTED: August 4, 2020

ORDINANCE 2020-12

**AN ORDINANCE OF THE BOROUGH OF POINT PLEASANT BEACH AMENDING CHAPTER XXI,
BEACHES OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF POINT
PLEASANT BEACH**

WHEREAS the Governing Body of the Borough of Point Pleasant Beach (hereinafter "Borough") has found that it is in the public interest to amend Chapter 21, entitled "Beaches" to further regulate the conduct of guests using the beaches located in the Borough.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Point Pleasant Beach, County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter XXI, entitled "Beaches," Subchapter 1, entitled "OCEANFRONT, BEACHES, OCEAN WATERS" is hereby repealed and replaced with the following:

21 – 1 BOARDWALK, BEACHES, AND OCEAN WATERS

Operation

21-1.1 *Operating Season.*

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

Unless determined otherwise by a resolution of the Borough Council, the general operating season shall commence on May 1 and continue through October 15. During the operating season all persons using the Beaches and the Ocean Waters adjacent thereto during operating hours shall obtain and display an appropriate beach badge as required by the owner of the beach.

21-1.2 Operation

A. Hours

Daily operating hours at the oceanfront during the operating season shall be as follows, except during inclement weather:

1. Saturday, Sunday and Holidays: 9:00 a.m. to 7:00 p.m.
2. Monday to Friday: 9:00 a.m. to 7:00 p.m.
3. Surfers, fishermen, and those using self-contained underwater breathing apparatus (SCUBA) equipment may access the beach, at their own risk, to surf, fish, or dive after the beach closes, but may not remain on the beach when not surfing, fishing or diving.
4. Exercising east of the mean high water mark is permitted at all times. Exercise classes may be held on the beach at any time with the permission of the owner.

1. Contraband

2. No one who operates a beach and charges a fee shall allow any employee under the age of 18 to inspect patrons or their possessions for alcohol and/or illegal or controlled substances.
3. If an individual who has paid a fee to access a beach is found in possession of alcohol or controlled substances while on a beach, the beach operator shall be investigated for, and, if warranted charged, with a violation of N.J.S.A. 2C:33-12. Upon a beach operator's conviction for violating N.J.S.A. 2C:33-12 the Borough may seek any and all penalties provided by N.J.S.A. 2C:33-12.1.
4. Oceanfront bathing is permitted only when lifeguards are on duty regardless of operating hours. No person shall enter the bay or ocean when lifeguards are not on duty, except with a surfboard, paddle board or the like, or while using self-contained underwater breathing apparatus. Any such entry when lifeguards are not on duty is at the entrant's own risk.

21-1.3 Closing Time.

All persons are restricted from remaining on the beaches after 7:00 p.m. except with special permission of the owner. Surfers, fishermen, and those using self-contained underwater breathing apparatus or exercising as described in 21-1.2A(3) and (4) above may access the beach, at their own risk, to surf, fish, dive, or exercise after the Beach closes, but may not remain on the beach when not surfing, fishing, diving or exercising.

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

21-1.4 Prohibited Acts.

No person shall do any of the following things at or upon the Boardwalk and/or beaches or the ocean waters located in the Borough.

1. Throw, drop, discard, dump, or leave any wastepaper, garbage, or other refuse, or in any way litter, make unsightly, damage, destroy or disfigure said beach, dune, water, or any public or private property.
 2. Sell, peddle or hawk any food, drink or confections, with the exception of those licensed to do so by the Borough.
 3. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.
 4. Play ball, or ride or operate a surfboard, or engage in any other activity which will endanger another person or interfere with the enjoyment of the quiet use of the beach.
 5. ~~Take any intoxicating liquor upon the beach, or any glass containers or bottles.~~
 6. Take or permit his or her dog to be or go upon the beach or in the water at any public bathing beach; except that any dog under the control of a leash may utilize the municipal beach, and the approaches for access only, between October 1st and April 30th, between the hours of 8:00 a.m. and 3:00 p.m. of each year.
 7. Go into the water, or remain in the water;
 8. When it is unsafe to do so;
 9. When directed by a public lifeguard to come out of the water;
 10. When Intoxicated;
 11. Farther than directed by a lifeguard; or
 12. In violation of a reasonable order of a lifeguard when the safety of the
bather is or may be endangered by going into the water.
 13. Molest or disturb any person in the peaceful enjoyment of said beach, or bathing facilities.
 14. Refuse or neglect to obey the orders and directions of a lifeguard as to time, place and distance for bathing, or resting on the sand, or otherwise for social distancing, or interfere with or obstruct a police officer or lifeguard in the performance of his or her duty.
 15. Operate a privately owned beach buggy or other motor vehicle on the beach at any time except with the permission of the owner of the beach.
-
1. Pursuant to N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2, smoke or burn a lighted cigar, cigarette or pipe, including any handheld electronic device which vaporizes a liquid (e.g., e-cigarettes, e-cigs, electronic nicotine delivery systems, electronic non-nicotine delivery systems, personal vaporizers,

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

- PVs), or any other matter or substance which contains tobacco on any property owned by the Federal, State, County or local government east of the entrance to the Boardwalk or on the beach;
2. Bring any of the following onto a beach:
 1. Coolers larger than 13 inches in width, or length, or height and/or has a capacity greater than nine (9) quarts.
 2. Serving trays, warming trays, pots, pans, devices, equipment or utensils utilized for the preparation or storage of food.
 3. Canopy style sun shades bigger than 7' x 7' and any size canopy style sun shade with side walls including tents and tent clusters.
 4. Devices designed or used to shade infants and small children, also known as "baby tents," larger than 36 inches high by 36 inches wide by 36 inches deep.
 5. Umbrellas with a collapsible circular shade greater than eight feet in diameter or radiating from a center pole greater than 7 feet 6 inches in height or with grounding lines, ropes, or sides.
 6. Umbrellas, baby tents and canopies anchoring lines, tethers, or the like that extend beyond the perimeter of the umbrella, the baby tent or canopy.
 - Tables or stands or boards or other devices positioned to function as a table.
 1. Cook on the Beach
 2. Bring a drone onto or operate a drone on the Beach.

21-1.5 Policing.

The police in the municipality shall police the beaches, Boardwalk, and waterfront located in the Borough.

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

SECTION 2. A new section, 21-5, shall be added as follows:

21- 5 Municipal Beach.

21-5.1 Established.

A municipal beach is hereby established for the public health, recreation, bathing and entertainment.

21-5.2 Municipal Beach Delineated.

The area lying to the east of the street ends known as Maryland Avenue and Delaware Avenue and being commonly designated as the "Plaza" area and having an approximate depth of 110 feet by an ocean frontage of 450 feet.

21-5.3 Safeguards, Equipment and Facilities.

The municipality shall arrange for the acquisition, use, and maintenance of such safeguards, equipment and facilities as the Borough shall deem necessary for the proper establishment and maintenance of said place or resort for public health, recreation, bathing, and entertainment.

21-5.4 Lifeguards.

The Borough shall arrange for lifeguards as the Borough shall deem necessary for the proper maintenance of said municipal beach. The hours of lifeguards shall be as set by Resolution of the Governing Body.

21-5.6 Fee for Use.

In order to provide funds to improve, maintain and police the municipal beach and to protect the same from erosion, encroachment, damage by the sea, or otherwise, and to provide facilities and safeguards for public bathing and recreation, including the employment of lifeguards, reasonable fees shall be charged the person using said lands and bathing facilities for access to the beaches and bathing and recreational facilities from May 1 to October 15: These fees shall be set by Resolution of the Governing Body.

21-5.7 Reserved.

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

SECTION 3. The provisions of this ordinance shall be severable. If any section or provision shall be held to be invalid by any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this ordinance which shall remain in full force and effect.

SECTION 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 5. This ordinance shall take effect after final passage and publication as provided by law.

Approved this _____ day of _____, 2020:

Borough of Point Pleasant Beach

Paul Kanitra, Mayor

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a meeting of the Governing Body of the Borough of Point Pleasant Beach, in the County of Ocean, State of New Jersey, on July 21, 2020. It will be further considered for final passage, after public hearing thereon, at a meeting of the Governing Body to be held via the Zoom online meeting platform on August 4, 2020 at 7:30 p.m., at which time and place any person desiring to be heard will be given an opportunity to be so heard. To attend the meeting online go to

<https://zoom.us/j/98447103255?pwd=UWtMRGlxZjRWVlJKOThvSFBPNmRhUT09>

Meeting ID: 984 4710 3255 / Password 752442

To attend the meeting via telephone dial 1 (929) 205-6099, follow prompts and press # (if prompted for participant ID, press # to bypass). Any changes to the meeting location, online meeting platform, meeting ID, password, online URL or telephone dial-in number will be posted to the Borough's web

8/7/2020

ORDINANCE 2020-12 Amend Ch 21, Regulations Governing Conduct on Beaches and Boardwalk - Borough of Point Pleasant Beach

site, www.pointpleasantbeach.org. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost for members of the general public in the Police lobby of the Municipal Building, 416 New Jersey Avenue, Point Pleasant Beach, NJ 08742 and on the Borough's website: (<https://pointpleasantbeach.org/ordinances/>) or can be obtained by calling the Borough Clerk (732/892-1118, extension 210) during the hours of 9AM to 4PM.

EILEEN FARRELL, RMC

Municipal Clerk

R.S. GASIOROWSKI, ESQ. - ID#244421968
GASIOROWSKI & HOLOBINKO
54 BROAD STREET
RED BANK, NEW JERSEY 07701
(732) 212-9930
Fax: (732) 212-9980
Attorney for Plaintiffs, Jenkinson's Pavilion,
Frank Storino and Anthony Storino

JENKINSON'S PAVILION; ANTHONY	:
STORINO AND FRANK STORINO	:
	: SUPERIOR COURT OF NEW JERSEY
	: LAW DIVISION
Plaintiffs,	: OCEAN COUNTY
	:
vs.	: Docket No.
	:
BOROUGH OF POINT PLEASANT	: <u>Civil Action</u>
BEACH; MAYOR AND COUNCIL OF THE	:
BOROUGH OF POINT PLEASANT	: ORDER TO SHOW CAUSE SEEKING
BEACH; POLICE DEPARTMENT OF THE	: PRELIMINARY INJUNCTION AND
BOROUGH OF POINT PLEASANT	: ORIGINAL PROCESS (R.4:52)
BEACH; PAUL M. KANITRA,	:
Individually and in his	:
capacity as the Mayor of The	:
Defendant, Borough of Point	:
Pleasant Beach; CARYN BYRNES,	:
Individually, and in her	:
capacity as a Councilwoman;	:
ARLENE TESTA, Individually and	:
in her capacity as a	:
Councilwoman; DOUGLAS VITALE,	:
Individually and in his	:
Capacity as a Councilman, and	:
KEVIN B. RIORDAN, Individually	:
and in his capacity as the	:
Borough Attorney for the	:
Defendant,	:
Borough of Point Pleasant	:
Beach.	:
	:
Defendant.	:
	:

THIS MATTER having been brought before to the Court by R. S. Gasiorowski, Esq., attorney for Plaintiffs, seeking relief by way Preliminary Injunction on the return date set forth below pursuant to R. 4:52-2 and / or alternatively or cumulatively a Stay pursuant to R. 4:69-3, based upon the facts set forth in the Verified Complaint and Jury Demand filed herewith, and for good cause shown.

IT IS ON THIS _____ DAY OF AUGUST, 2020,

ORDERED that Defendant(s) appear and show cause before the undersigned of the Superior Court of New Jersey, Law Division, Civil Part, at the Court Room of the undersigned located at the Ocean County Courthouse in Toms River, New Jersey at _____ o'clock or as soon thereafter as counsel can be heard, why an Order should not be entered as follows:

- An Order disqualifying attorney Kevin B. Riordan, Esq. from appearing as counsel or in any way, directly or indirectly, representing or giving legal advice to any of the Defendants in this action due to a disqualifying conflict of interest and / or alternatively or cumulatively due to a disqualifying "appearance of impropriety"; and

- An Order Preliminarily Enjoining and restraining Defendants from in any way enforcing any provisions of newly enacted "ORDINANCE 2020-12, An Ordinance of the Borough of Point Pleasant Beach Amending

Chapter XXI, Beaches of the Revised General Ordinances of the Borough of Point Pleasant Beach" which was adopted into law by the Mayor and Council on August 4, 2020, until further Order of this Court;

AND IT IS FURTHER ORDERED that:

1. A copy of this Order to Show Cause, Verified Complaint and Jury Demand and Memorandum of Law and any supporting Affidavits or Certifications submitted in support of this application be served upon the attorney for the Defendants, and upon Defendant Kevin B. Riordan at the following address:

**Kevin B. Riordan, Esq.
KEVIN RIORDAN, LLC
20 Hadley Avenue
Toms River, New Jersey 08753
Attorney for Defendants Borough of Point Pleasant Beach, Mayor and Council of the Borough of Point Pleasant Beach; Police Department of the Borough of Point Pleasant Beach, Paul M. Kanitra, Caryn Byrnes, Arlene Testa, Douglas Vitale and Kevin B. Riordan**

personally within _____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this Order to Show Cause being original process as permitted by R. 4:52-1(b); and

2. The Plaintiffs must file with the Court their Proof of Service of the pleadings and motion papers on the Defendant(s) no later than three (3) days before the return date.

3. Defendant(s) shall file and serve a written response to this Order to Show Cause and the request for entry of Preliminary Injunctive Relief and a Proof of Service by _____. The original documents must be filed with the Clerk of the Superior Court in the County listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at **njcourts.gov/forms/10153_deptyclerklawref.pdf**. You must also send a copy of your opposition papers directly to the undersigned Judge whose address is listed above. You must also send a copy of your opposition papers to the Plaintiffs' attorney whose name and address appears above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$175.00 and serve your opposition on your adversary, if you want the Court to hear your opposition to the Preliminary Injunctive relief the Plaintiffs are seeking.

4. The Plaintiff must file and serve any written reply to the Defendants' opposition to the Order to Show Cause by _____. The reply papers must be filed with the Clerk of the Superior Court in the county listed above, a copy of the reply papers must be sent directly to the chambers of Judge at the address listed above, and a copy of the reply papers must be sent to the Defendants' attorney.

5. If the Defendants do not file and serve opposition to this Order to Show cause the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiffs files a proof of service and a proposed form of Order at least three days prior to the return date.

6. If the Plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

7. **DEFENDANTS TAKE NOTICE** that the Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint and Jury Demand attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this Verified Complaint and Jury Demand, you, or your attorney, must file a written Answer and Proof of Service within 35 days from the day of service of this Order to Show Cause not counting the day you received it. These documents must be filed with the Clerk of the Superior Court of New Jersey, Law Division, Civil Part, in the County listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at

njcourts.gov/forms/10153_deputyclerklawref.pdf. Include a \$175.00 filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to the Plaintiffs' attorney whose name and address appear above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the Order to Show Cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the court may enter a default against you for the relief plaintiff demands.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at njcourts.gov/forms/10153_deptyclerklawref.pdf.

9. The court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court

and parties are advised to the contrary no later than _____
days before the return date.

J.S.C.

R.S. GASIOROWSKI, ESQ. - ID#244421968
GASIOROWSKI & HOLOBINKO
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RED BANK, NEW JERSEY 07701
(732) 212-9930
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Attorney for Plaintiffs, Jenkinson's Pavilion,
Frank Storino and Anthony Storino

JENKINSON'S PAVILION; ANTHONY	:
STORINO AND FRANK STORINO	:
	: SUPERIOR COURT OF NEW JERSEY
	: LAW DIVISION
Plaintiffs,	: OCEAN COUNTY
	:
vs.	: Docket No.
	:
BOROUGH OF POINT PLEASANT	: <u>Civil Action</u>
BEACH; MAYOR AND COUNCIL OF THE	:
BOROUGH OF POINT PLEASANT	: ORDER ENTERING PRELIMINARY
BEACH; POLICE DEPARTMENT OF THE	: INJUNCTION AND DISQUALIFYING
BOROUGH OF POINT PLEASANT	: COUNSEL
BEACH; PAUL M. KANITRA,	:
Individually and in his	:
capacity as the Mayor of The	:
Defendant, Borough of Point	:
Pleasant Beach; CARYN BYRNES,	:
Individually, and in her	:
capacity as a Councilwoman;	:
ARLENE TESTA, Individually and	:
in her capacity as a	:
Councilwoman; DOUGLAS VITALE,	:
Individually and in his	:
Capacity as a Councilman, and	:
KEVIN B. RIORDAN, Individually	:
and in his capacity as the	:
Borough Attorney for the	:
Defendant,	:
Borough of Point Pleasant	:
Beach.	:
	:
Defendant.	:

THIS MATTER having been brought before to the Court by R. S. Gasiorowski, Esq., attorney for Plaintiffs, seeking a Preliminary Injunction on notice to the Defendants who were afforded adequate opportunity to respond and to be heard, and the Court having considered the papers and argument of counsel, if any, and for good cause shown;

IT IS ON THIS _____ DAY OF _____, 2020,

ORDERED that the Defendants are hereby preliminarily enjoined and restrained from in any way enforcing any provisions of the newly enacted "*ORDINANCE 2020-12, An Ordinance of the Borough of Point Pleasant Beach Amending Chapter XXI, Beaches of the Revised General Ordinances of the Borough of Point Pleasant Beach*" which was adopted into law by the Mayor and Council on August 4, 2020, until further Order of this Court; and

IT IS FURTHER ORDERED that attorney Kevin B. Riordan, Esq. is hereby disqualified from appearing as counsel or in any way, directly or indirectly, representing or giving legal advice to any of the Defendants in this action (other than to or on behalf of himself) due to a disqualifying conflict of interest and/or alternatively or cumulatively due to a disqualifying "appearance of impropriety"; and

IT IS FURTHER ORDERED that a copy of this Order shall be personally served by the Plaintiff upon (1) the Defendant Point

Pleasant Beach Police Department and (2) the Municipal Clerk of the Borough of Point Pleasant Beach immediately.

J.S.C.

R.S. GASIOROWSKI, ESQ. - ID#244421968
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Attorney for Plaintiffs, Jenkinson's Pavilion,
Frank Storino and Anthony Storino

JENKINSON'S PAVILION; ANTHONY	:	
STORINO AND FRANK STORINO	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiffs,	:	OCEAN COUNTY
	:	
vs.	:	Docket No.
	:	
BOROUGH OF POINT PLEASANT	:	<u>Civil Action</u>
BEACH; MAYOR AND COUNCIL OF	:	
THE BOROUGH OF POINT PLEASANT	:	CERTIFICATION OF R.S.
BEACH; POLICE DEPARTMENT OF	:	GASIOROWSKI, ESQ. IN SUPPORT
THE BOROUGH OF POINT PLEASANT	:	OF ORDER TO SHOW CAUSE
BEACH; PAUL M. KANITRA,	:	
Individually And In His	:	
Capacity As The Mayor Of The	:	
Defendant, Borough Of Point	:	
Pleasant Beach; CARYN BYRNES,	:	
Individually, And In Her	:	
Capacity As A Councilwoman;	:	
ARLENE TESTA, Individually	:	
And In Her Capacity As A	:	
Councilwoman; DOUGLAS VITALE,	:	
Individually And In His	:	
Capacity As A Councilman,	:	
and KEVIN B. RIORDAN,	:	
Individually And In His	:	
Capacity As The Borough	:	
Attorney For The Defendant,	:	
Borough Of Point Pleasant	:	
Beach.	:	
	:	
Defendant.	:	

R.S. GASIOROWSKI, ESQ. hereby certifies as follows:

1. I am an Attorney at Law of the State of New Jersey with the firm of Gasiorowski & Holobinko, attorneys for the Plaintiffs in the within captioned matter. As such, I am fully familiar with the facts and circumstances of this matter.

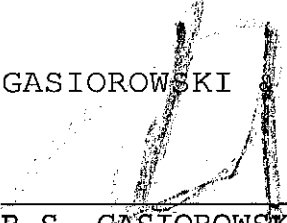
2. I attach thereto true and accurate copies of the documents which are contained in my file:

EXHIBIT 1	July 21, 2020	Borough Council Transcript of Proceeding
EXHIBIT 2	August 4, 2020	Borough Council Transcript of Proceeding
EXHIBIT 3	August 4, 2020	Correspondence from R.S. Gasiorowski, Esq. to Mayor and Council

I certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

GASIOROWSKI & HOLOBINKO

BY:



R.S. GASIOROWSKI, ESQ.
Attorney for Plaintiffs,
Jenkinson's Pavilion, Anthony
Storino and Frank Storino

DATE: August 27, 2020

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Frank Storino and Anthony Storino

JENKINSON'S PAVILION; ANTHONY :
STORINO AND FRANK STORINO : SUPERIOR COURT OF NEW JERSEY
 : LAW DIVISION
Plaintiffs, : OCEAN COUNTY

vs. : Docket No.

BOROUGH OF POINT PLEASANT : Civil Action
BEACH; MAYOR AND COUNCIL OF THE :
BOROUGH OF POINT PLEASANT :
BEACH; POLICE DEPARTMENT OF THE :
BOROUGH OF POINT PLEASANT :
BEACH; PAUL M. KANITRA, :
Individually and in his :
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Pleasant Beach; CARYN BYRNES, :
Individually, and in her :
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Councilwoman; DOUGLAS VITALE, :
Individually and in his :
Capacity as a Councilman, and :
KEVIN B. RIORDAN, Individually :
and in his capacity as the :
Borough Attorney for the :
Defendant, :
Borough of Point Pleasant :
Beach. :

MEMORANDUM OF LAW

Defendant.

INTRODUCTION:

At issue here is the legal authority of the Borough of Point Pleasant Beach to enact, and the overall validity and legality of certain portions of, newly enacted "ORDINANCE 2020-12, An Ordinance of the Borough of Point Pleasant Beach Amending Chapter XXI, Beaches of the Revised General Ordinances of the Borough of Point Pleasant Beach" which was adopted into law by the Mayor and Council (there was a 3/3 vote split on the Council. The Mayor cast the deciding "Yes" vote) on August 4, 2020.

The Borough of Point Pleasant Beach operates under the partisan Borough form of Government as permitted by New Jersey Statutes. The elected governing body is Mayor Paul M. Kanitra and Council Members Tom Migut, Bob Santanello, Andy Cortes, Arlene Testa, Douglas Vitale and Caryn Byrnes. This new local Ordinance in many ways vastly revised and changed the long prior existing Chapter XXI and, as will be discussed in more detail further herein, in many ways has done so illegally and impermissibly which will result most assuredly result a Superior Court of the State of New Jersey ultimately invalidating and striking the challenged provisions as illegal, ultra vires, preexempted and unconstitutional as explained more fully as follows.

Plaintiffs bring this challenge forward both as a traditional Declaratory Judgment and Damages action and equally as an Action in Lieu of Prerogative Writs. Plaintiffs have brought this Order to Show Cause simultaneous to the filing of this action seeking on the return date Preliminary Injunctive Relief under R. 4:52-2 and / or alternatively or cumulatively a "Stay" under R. 4:69-3 to maintain the status quo between the parties as it was before the August 4, 2020 adoption and enactment of challenged Ordinance 2020-12.

STATEMENT OF FACTS:

The Borough of Point Pleasant Beach is a local municipality located in Ocean County New Jersey along the Atlantic Ocean situated to the East, South of the Manasquan River and North and East of Beaverdam Creek where it meets the Metedeconk River. The Atlantic Ocean, with a sandy beach area runs along the entire Eastern boundary. The beach has a definable and ascertainable historic "mean high water line". All of that dry sand area East of the "mean high water line" is subject to the common law "Public Trust Doctrine". Under the "Public Trust Doctrine" the public's ownership and rights to access and use all tidal waterways and their shores are held by the State of New Jersey in trust for the benefit of all people. The common law doctrine further provides that the public has the right to fully utilize

these lands and waters for a variety of public activities. Effective May 3, 2019, the "Public Trust Doctrine" has now been codified by the New Jersey State Legislature into positive statutory law. See *Public Law 2019, Chapter 81*. In such new law the State Legislature has specifically and unambiguously made clear that they have designated the New Jersey Department of Environmental Protection ("NJDEP") as the State entity with "... the authority and the duty to protect the public's right of access to tidally flowed waters and their adjacent shorelines under the public trust doctrine and statutory law." See *Public Law 2019, Chapter 81*, section 1, paragraph d. See more detailed discussion, *infra*.¹

Located directly west of the sandy beach is a large boardwalk area with structures housing many seasonal businesses such as arcade games, food vendors, rides, retail stores, bars, and Ocean County's largest tourist attraction - the regionally well known Jenkinson's Aquarium. Traditionally during the summer months the entirety of Point Pleasant Beach along the boardwalk is crowded with thousands of out of town tourists, who come to

¹ Because the "Public Trust Doctrine" was previously defined by case law rather than statute, New Jersey courts have decided how far the doctrine extends and, more importantly, who can enforce it. A 2015 Appellate Division decision invalidated the New Jersey Department of Environmental Protection's (NJDEP) Public Access Rule claiming that the State Legislature had not unequivocally designated jurisdiction in that agency to enforce the common law "Public Trust Doctrine". Specifically, in *Hackensack Riverkeeper, NY/NJ Baykeeper v. NJ DEP*, 443 N.J. Super 293 (App. Div. 2015), the Appellate Division concluded that the NJDEP did not have the authority to adopt and enforce such rules and regulations implementing and enforcing the "Public Trust Doctrine". The Court stated there and then: "Case law that has developed regarding the public trust doctrine, including those which have expanded its reach to privately owned property, do not support NJDEP's contention that the legislature implicitly delegated regulatory powers to the agency," (Emphasis added). In enacting *Public Law 2019, Chapter 81*, the State Legislature codified the "Public Trust Doctrine" into positive statutory law and EXPLICITLY DELEGATED all regulatory and enforcement powers to the DEP, essentially "canonizing and legislatively over-riding" and directly responding to the Appellate Division's decision in *Hackensack Riverkeeper, supra*.

enjoy the Ocean, beach, boardwalk, food, drink, games and attractions during the day with a continuing thriving social scene with dinner crowds in the early evening and entertainment later into the night at the Jenkinson's Pavilion Bar and Restaurant complex. Most of the beachfront area - specifically including most of the sandy beach area, most of the boardwalk area, most of the structures and buildings on the boardwalk and adjacent parking lots - are private property owned by related companies and businesses that make up and are referred to collectively here simply as "Jenkinsons", as all together are commonly known. Essentially today all of the beach and beachfront area is private property owned by Plaintiff Jenkinson's except for the small portion that is still owned by the Borough of Point Pleasant Beach operated as a Municipal Beach (South of Jenkinson's) identified and delineated in their own Ordinances as follows:

§21-1A.2 Municipal Beach Delineated.

The area lying to the east of the street ends known as Maryland Avenue and Delaware Avenue and being commonly designated as the "Plaza" area and having an approximate depth of 110 feet by an ocean frontage of 450 feet.

[See Borough of Point Pleasant Beach Ordinance, old §21-1A.2, and new §21-5.2].

The New Jersey State Legislature has conferred general authority to municipalities such as Defendant Borough of Point

Pleasant Beach to enact local ordinances to regulate their own Municipal Beaches. See N.J.S.A. 40:61-22.20 and detailed discussion, *infra*. The State Legislature has not conferred any specific or implied authority on local Municipalities to in any way govern or regulate private beach property. Jenkinson's beach of "private", not "public" property.

Prior to the 2020 Summer Season, the "Old Ordinance" governing the Public Beaches was found in Borough of Point Pleasant Beach Ordinance §21-1.1 through -1.3 and §21-1A.1 through -1A.8. Significantly, §21-1A.8 listed in paragraphs (a) through (n) a variety things which were designated as "Prohibited Acts", with the section stating that: "No Person shall do any of the following things at or upon the municipal beach. Again, Plaintiff's beach is "private property", not "public property." (Emphasis added). Contained within that section was paragraph (e), (l) & (m) which each previously read as follows:

§21-1A.8 Prohibited Acts.

No person shall do any of the following things at or upon the municipal beach:

3. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.

e. Take any intoxicating liquor upon the beach, or any glass containers or bottles.

- l. Bring any of the following onto the Beach:
 1. Coolers larger than 24 inches in width, or height and/or has a capacity greater than 36 quarts.
 2. Serving trays, warming trays, pots, pans, devices, equipment or utensils utilized for the preparation or storage of food.
 3. Canopy style sun shades bigger than 10' x 10' and any size canopy style sunshade with sidewalls including tents and tent clusters.
 4. Devices designed or used to shade infants and small children, also known as "baby tents," larger than 36 inches high by 36 inches wide by 36 inches deep.
 5. Umbrellas with a collapsible circular shade greater than eight feet diameter or radiating from a center pole greater than 7 feet 6 inches in height, or with grounding lines, ropes, or sides.
 6. Umbrellas, baby tents and canopies anchoring lines, tethers, or the like that extended beyond the perimeter of the umbrella, the baby tent or canopy.
 7. Tables or stands or boards or other devices positioned to function as a table.

m. Cook on the Beach.

[See §21-1A.8(e), (l) & (m)].

A. The Relevant Substantive Changes in the Challenged Ordinance:

The new Ordinance dramatically changes the existing "status quo" and with little or no advance notice it dramatically expands the scope of the prior Beach Ordinance from regulating only the municipal beach, to now purportedly regulating all beaches, specifically including now for the first time ever regulating Plaintiff Jenkinson's private property beach. The challenged Ordinance accomplishes this simply by amending the new "Prohibited Acts" section of the existing Ordinance's definition of "beach" to now read in particular relevant part:

§21-1.4 Prohibited Acts.

No person shall do any of the following things at or upon the Boardwalk and/or beaches or the ocean waters located in the Borough.

3. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.

5. Take any intoxicating liquor upon the beach, or any glass containers or bottles.

2² Bring any of the following onto a

3. Beach:

4. Coolers larger than 13 inches in width, or length, or height and/or has a capacity greater than nine (9) quarts.

[See §21-1.4].

²This is the literal paragraph numbering in the official published version of the Ordinance available which appears to be in error.

In what is quite clearly an illegal exercise of power (see *infra.*) the Defendant Borough has now suddenly changed the definition of "beach" to include ALL beaches, including private property beaches with no legal authority to do so. It has illegally extended municipal regulatory jurisdiction now over all private property beaches. With no legal authority it declared that it is illegal for adults over the age of 21 years to bring, possess and consume alcohol onto Jenkinson's private property beach and illegal to make any noise or play any music on Jenkinson's private property beach. See §21-1.4(3) & (5). This is clearly something that is beyond the Borough's lawful authority to regulate and prohibit. (see *infra.*) The Borough has no authority to regulate Jenkinson's private property beach, yet they seek to do so. They have done things so petty in their illegal micro managing of Jenkinson's private property as to arbitrarily mandate the reduction of the size of ice coolers on "beaches" (formerly just *municipal* beaches) from a maximum of 24 inches in width and height and maximum of 36 quarts (9 gallon cooler), see §21-1A.8(1)(1), to now a maximum of 13 inches in width, height and length and a maximum of 9 quarts (2.25 gallon cooler). See §21-1.4(2)(3). The Court should consider the impact this has on families of moderate means, who can not afford the expensive food for sale on the boardwalk, to bring their own food

and drink onto the beach. Moreover, regarding the alcohol issue and reduced size of coolers, the Borough has enacted an entirely new section §21-1.2B which (illegally) places a new affirmative legal obligation on Jenkinson's to hire only persons 18 years or older who are also now purportedly affirmatively required to actually "physically search" all patrons and their possessions as they enter the private beach to ostensibly search for alcoholic beverages (which are perfectly legal on this private property beach) and for other "contraband", all without a search warrant. Lastly, the new Ordinance purports to confer "policing" authority on local municipal police to "police" the private property beach, taking for themselves the right to have police officers not merely come when called, but to enter at will onto this private property beach and to walk amongst and "police" the beach patrons down on the sand on this private beach, again doing so with no authority to confer such authority on themselves or their municipal police department. See §21-1.5.

B. Procedural History of the Passage of the Challenged Ordinance:

As a matter of procedure, the proposed Ordinance was initially and quickly proposed and formally introduced and subject to the required "First Reading" on July 21, 2020. During the public portion of that July 21, 2020 meeting, resident David Cavagnaro commented as follows on the proposed Ordinance:

MR. CAVAGNARO: Good evening. Dave Cavagnaro, 118 Parkway. I'll start with the Beach Ordinance since that was just mentioned. I appreciate your concerns and your dedication or what you're trying to do. My sticking point is that for the sake of public safety you are again tampering with people's private property rights. And this owner just indicated what my big concern would be. Before an ordinance like this comes to the table, why wasn't there a sit-down meeting with all the beach owners first to see what their input would be before the ordinance even comes to the table? It shouldn't be introduced first and then let's sit down and talk to the people with their problems or issues. (Emphasis added).

[See July 21, 2020 Transcript of Meeting at Page 129, Line 15 through Page 130, Line 4].

Though the Ordinance was admittedly written by Defendant Mayor Kanitra and Defendant Borough Attorney Riordan, the Ordinance was proposed as amended by Councilman Vitale and Seconded by Councilwoman Testa. The Borough Clerk called and recorded the vote on the first reading on July 21, 2020 as follows:

MS. FARRELL: Okay. So I have a motion by Councilman Viale, second by Councilwoman Testa?

COUNCILWOMAN TESTA: Yes.

MS. FARRELL: Okay. Councilman Vitale.

COUNCILMAN VITALE: Yes.

MS. FARRELL: Councilwoman Testa.

COUNCILWOMAN TESTA: Yes.

MS. FARRELL: Councilwoman Byrnes.

COUNCILWOMAN BYRNES: Yes.

MS. FARRELL: Councilman Cortes.

COUNCILWOMAN CORTES: I am for a lot of the stuff on this ordinance. I mean, we have to control it. I do have a problem, though, with regulating by. You know, private owners on when they can operate and who they can hire.

Other than that I love it. But I'm going to vote no because it's my heart.

MS. FARRELL: Council Santanello.

COUNCILMAN SANTANELLO: No.

MS. FARRELL: Councilman Migut.

COUNCIL PRESIDENT MIGUT: No.

***[NOTE: with a 3 /3 tie vote Ordinance does not proceed, but the Mayor, if eligible to vote, may cast a vote to split the tie]**

MAYOR KANITRA: My turn?

MS. FARRELL: Yes.

MAYOR KANITRA: I vote yes.

MS. FARRELL: and this is just to amend the ordinance and to pass it as amend - - approve it as amended? Is that correct?

MAYOR KANITRA: Correct.

MS. FARRELL: Okay. The public hearing on this ordinance will be August 4th.

[See July 21, 2020 Transcript of Meeting at Page 149, Line 19 through Page 150, Line 24]. ³

With a recorded Council vote of a tie of 3/3, Defendant Mayor Kanitra voted in favor of the Ordinance breaking the tie. The Ordinance then proceeded on to a second reading and final

³ The following documents are attached to the Certification of R.S. Gasiorowski, Esq: Exhibit 1-July 21, 2020 Borough Council Transcript of Proceedings; Exhibit 2-August 4, 2020 Borough County Transcript of Proceedings; Exhibit 3 August 4, 2020 correspondence from R.S. Gasiorowski, Esq. to Mayor and Council.

vote scheduled for August 4, 2020. Between the date of July 21, 2020 and August 4, 2020 Defendant Kanitra and Defendant Riordan conspired to improperly lobby and pressure dissenting members of the Council (Council members Cortes, Santanello and Migut) to change their "No" votes. Such action - essentially lobbying - is not unethical on the part of a Mayor, but is most certainly absolutely unethical on the part of a Borough Attorney whose professional allegiance is to (or is *supposed* to be to) the entire governing body. The issue of the propriety of Defendant Riordan's conduct was specifically raised on August 4, 2020 by Councilperson Robert Santanello with the colloquy and a vote on disqualification of Mr. Riordan from representing the Defendant Borough any longer on this issue on the record being as follows:

COUNCILMAN SANTANELLO: ... *** ... What I'm going to tell you, now, should chill you to the bone. I already stated repeatedly that Riordan is a walking, breathing, conflict of interest to residents as the borough Attorney. He's the head of the Republican Party in town and the Committee Chair of the (indiscernible).

Over the last week, he has called Councilman Migut and Cortes to try to twist their arms to get them to change their votes. And he tried it again today with Councilman Cortes. So how could a Borough Attorney actively advocate for an ordinance that he is going to build an obscene amount of money from and through inevitable litigation? That goes beyond politics. It goes beyond logic. It goes be on ethics and, in my opinion, is

outright corruption. He's here to give us legal advice, not to (indiscernible) ordinance for his own enrichment. Even worse, he told Councilman Cortes that once he was done convincing him that he should change his mind, and that Andy should then call me and pretend that on his own he wanted to asked me to change my vote as well. He's encouraging a sitting Councilman to live to another sitting Councilman. That's just despicable. And I'm horrified that he is entrusted with such an important position.

Now, due to this unethical behavior, by making a motion now that neither Riordan nor his firm makes dime 14 litigation tied to this ordinance. My motion is that one of the other several dozen firms who sign contracts this year should handle this litigation. It's imperative that we have representation that is unbiased, that doesn't have a vested financial interest in the ordinance. Please send a message that behavior your like that is simply unacceptable. Even if you agree with the ordinance, you have to recognize the entire reason and motivations behind it are suspect as well.

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COUNCILMAN CORTES: I'll second that.

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MS. FARRELL: And your speaking of the Beach Ordinance, correct, Ordinance 2020 - 12?

MAYOR KANITRA: and we just make a motion as a governing body to dis - you know, to exclude the Borough Attorney who wrote the ordinance?

COUNCILMAN CORTES: Well, on Reorg. Day I questioned why we had so many attorneys still

listed on the RFP, and to quote you, Mayor, I believe not verbatim but you said, so we have a big pool of attorneys to choose from if we need to. So we must have enough attorneys that can litigate any - - any issues that might come from this ordinance should it pass tonight.

MR. RIORDAN: Folks, this is real simple. There are no conflicts despite what Mr. Santanello may say. Certainly, this is an issue that could be discussed. But I have to object to the idea that I be disqualified based on what - - based on what Councilman Santanello said. And I would also suggest a review should be on who's best able to defend this ordinance, and I would suggest to you that that's my firm.

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COUNCILMAN CORTES: I made the second.

MS. FARRELL: Councilman Vitale.

MAYOR KANITRA: Councilman Vitale, are you there?

COUNCILMAN VITALE: Sorry. No.

MS. FARRELL: Councilman Testa.

COUNCILMAN TESTA: No.

MS. FARRELL: Councilwoman Byrnes.

COUNCILWOMAN BYRNES: That's a no.

MS. FARRELL: Councilman Cortes.

COUNCILMAN CORTES: Yes.

MS. FARRELL: Councilman Santanello.

COUNCILMAN SANTANELLO: Yes.

MS. FARRELL: Councilman Migut.

COUNCILMAN MIGUT: Yes.

***[NOTE: with a 3 /3 tie vote Ordinance does not proceed, but the Mayor, if eligible to vote, may cast a vote to split the tie]** MS. FARRELL: Mayor Kanitra.

MAYOR KANITRA: I see absolutely no reason why the person who drafted the ordinance (indiscernible) vote on it and why the

Borough Attorney who's been friends with Councilman Cortes isn't allowed to talk with him. So I say no. I think it's ridiculous.

COUNCILMAN SANTANELLO: Okay. Well, it failed. But I have to say for members of the governing body are in favor of an encouraging and approving of a Borough Attorney encouraging another Councilman to lie to another one. But I'm done, Mayor. Please feel free to spin away.

MAYOR KANITRA: Actually, Councilman Santanello, normally I go through a whole list of all the reasons why your - - your ramblings were insane, but I'll - I'll just take a pass because I don't even want to (indiscernible). ***

[See August 4, 2020 in Transcript of Meeting at Page 44, Line 10 through Page 48, Line 14].

Later at the end of the public comment section at the August 4, 2020 meeting, a resident argued that in light of the mere allegations - *which incredibly were never actually denied at any time by Mr. Riordan* - that the matter should be tabled and further investigated, with the colloquy as follows:

MR. MOREAU: May I speak regarding the ordinance?

MAYOR KANITRA: Who is that?___My - - my screen froze a little bit. Who's that?

MR. MOREAU: this is Rob Moreau, 208 River Avenue.

MAYOR KANITRA: Sure, Dr. Moreau. Go ahead.

MR. MOREAU: I - I - I just think that this ordinance is incredibly broad,

and one of the statements says if anybody right next to you is bothering you, that's

not acceptable. And, of course, this is going to initiate court proceedings.

It honestly is - - the fact that it is so broad that a person could say you were bothering me and it would have to, under this ordinance, it would have to be enforced by the police.

MR. RIORDAN: Doctor, that's not what the ordinance says. I don't practice veterinary medicine. You shouldn't tell me what the ordinance says.

MR. MOREAU: I can - - I can read English, Kevin. And it says that if you're bothering somebody, you can - - and you've also memorialized that the police will be enforcing this

- - you can ask the police to come over and stop somebody from bothering you. ***

Anyway, let me just say one other thing, and then I'll move on.

If Mr. Riordan is advocating, as Mr. Santanello says, for passage and is being behind the scenes - - being an advocate for this ordinance and that was true, that requires you guys to table this ordinance. This cannot be because obviously there is going to be litigation. This is completely a conflict of interest. And - - and especially if you guys are voting four to three over that. You need a further legal opinion from people outside - - MAYOR KANITRA: Thank you.

MR. MOREAU: - - Kevin's office. (Emphasis added).

[See August 4, 2020 in Transcript of Meeting at Page 88, Line 17 through Page 89, Line 5, at Page 90 Line 9 through Line 12, at Page 90, Line 21 through Page 91, Line 5 and Page 91, Line 19 through Page 92, Line 7].

Ignoring the factual and legal reality that they were now improperly regulating privately owned beach property, and proceeding in the face of alleged improper and unethical "behind the scenes" lobbying conduct by Defendant Riordan - *which conduct was never denied* - that both an elected official (Councilman Santanello) and a member of the community (Robert Moreau) claimed was on its face a clear conflict of interest (which means that therefore at very least was questionable attorney behavior that rises to the level to a disqualifying **appearance of impropriety**) the Defendants continued with a second and final vote which was recorded on the record on August 4, 2020 as follows:

MAYOR KANITRA: Okay. Hearing no one, is there a motion to close and adopt?

COUNCILWOMAN TESTA: A motion to close and adopt.

COUNCILMAN VITALE: I'll second that.

MS. FARRELL: Councilwoman Testa.

COUNCILWOMAN TESTA: Yes.

MS. FARRELL: Councilwoman Byrnes.

COUNCILWOMAN BYRNES: Yes.

MS. FARRELL: Councilman Cortes.

COUNCILMAN CORTES: before I vote I'm going to say I'm not in favor of bad things happening on the boardwalk and on the beach. I love the town contrary to the mayor and his little rant before. and I take really offense to that saying that I don't do anything. My - - I'm not going to go on, but my track record

over the past eight years and all my elections and reelections speak volumes.

I cannot vote yes for this. I'm voting no because of the way it's written. I've made that clear. We are governing private property's hours of operation and who they can hire. In other towns, like our attorney alluded to, own their beaches in the entirety. We do not.

So I vote no.

MS. FARRELL: Councilman Santanello.

COUNCILMAN SANTANELLO: No.

COUNCIL PRESIDENT MIGUT: I just want to say I believe there are numerous constitutional and statutory flaws with this ordinance. it takes rules for public property and imposes them on private property. I have a problem with that. it's the same reason I voted against the tree ordinance. Its government overreach.

Also, I've had a number of discussions with the residents in favor of the ordinance believing it can discourage people of different ethnicities from visiting the town. The intent to change the type of people who visit the town in terms of ethnicity (indiscernible) status is not a proper function of government. No.

MAYOR KANITRA: That sounds like it was drafted by somebody.

MS. FARRELL: Mayor Kanitra.

MAYOR KANITRA: Today the governing body received a letter from one beach operator's attorney timed to conveniently hit just a few hours before this vote. As it was email to the entire governing body, it's now considered public record, and I'm asking the borough clerk to attach it to the minutes for this meeting.

The first part of this letter is where they threatened to sue us if we don't back down and do exactly as they say, yada, yada,

yada. The second part goes on to say just another beach party was really no big deal and there's no bad or slovenly behavior on the beaches. Our Borough Attorney has read this letter and explains just how baseless it is. But it still is an entertaining read, and I encourage everyone to review it when they get a chance.

That all said, I'm going to vote yes because I'm not going to sell out my hometown.

MS. FARRELL: Okay. So this ordinance is passed.

[See August 4, 2020 in Transcript of Meeting at Page 92, Line 13 through Page 95, Line 6].

The filing of this action and application for preliminary injunctive relief followed.

I. PLAINTIFFS ARE ENTITLED TO THE PRELIMINARY INJUNCTION AS REQUESTED:

A. Applications for Preliminary Injunctive Relief or a "Stay" to Maintain the Status Quo Generally: R. 4:52-1 says in relevant part as follows:

(a) Order to Show Cause with Temporary Restraints. On the filing of a complaint seeking injunctive relief, the plaintiff may apply for an order requiring the defendant to show cause why an interlocutory injunction should not be granted pending the disposition of the action. *** ...

(b) Order to Show Cause as Process; Service. If the order to show cause issues upon the filing of the complaint, no summons shall issue in

the action if the order contains the name and address of plaintiff's attorney *** ...

- (c) Hearing; Briefs. Oral testimony may be taken in the court's discretion on the return date of the order to show cause and on the return date of defendant's motion to dissolve or modify the temporary restraint. Briefs shall be submitted in support of the application for an interlocutory injunction.

[R. 4:52-1(a)(b) &(c)].

R. 4:52-2 provides as follows:

During the pendency of an action, either a temporary restraint or an interlocutory injunction may be applied for either by motion or by order to show cause. The order to show cause shall be applied for and proceeded with in accordance with the provisions of R. 4:52-1, insofar as applicable.

[R. 4:52-2].

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Lastly, R. 4:69-3 provides as follows:

Upon or after the filing of the complaint, the plaintiff may, by order to show cause or motion supported by affidavit, and with briefs, apply for ad interim relief by way of stay, restraint or otherwise as the interest of justice requires, which may be granted by the court with or without terms. When necessary, temporary relief may be

granted without notice in accordance with R.
4:52-1.

[R. 4:52-1].

Plaintiffs now seek Preliminary Injunctive Relief under R. 4:52-2 and / or alternatively or cumulatively a "Stay" under R. 4:69-3 to maintain the status quo between the parties as it was before the August 4, 2020 adoption and enactment of challenged Ordinance 2020-12 during the pendency of this action or until further Order of the Court.

B. Standards for Issuing a Preliminary Injunction:

Plaintiff now moves for an Order granting an interlocutory injunction to maintain the status quo pending the disposition of his claims in this prerogative writ action.

A party seeking a provisional interlocutory injunction ("preliminary injunction") has the burden to demonstrate that: **(1)** the legal right underlying the claim is well settled, **(2)** there is a reasonable likelihood of ultimately prevailing on the merits; **(3)** there is a likelihood that immediate and irreparable injury will occur if relief is not granted; and **(4)** on balance, that the benefits of the relief granted would outweigh any harm such relief will cause other interested parties.

Crowe v. De Gioia, 90 N.J. 126, 132-134 (1982).

While the Court must weigh all "4 factors", specifically when assessing "factor 4" it is incumbent on the Court to be specifically aware and mindful of the important role the public interest plays when implicated. In this regard, it is wholly proper that "... courts, in the exercise of their equitable powers, 'may, and frequently do, go much further both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved.' " *Waste Management Company of New Jersey v. Union County Utilities Authority*, 399 N.J.Super. 508, 520-521 (App. Div. 2008) (quoting *Virginian Railway Co. v. Railway Employees*, 300 U.S. 515, 552 (1937)). It is for this reason that in another separate lawsuit by Waste Management, *Waste Management of New Jersey v. Morris County Municipal Utilities Authority*, 433 N.J.Super. 445 (App. Div. 2013), the Appellate Division made it further clear that Courts when the public interest is implicated by the litigation that the Court shall retain the "... authority to impose interlocutory restraints regardless of doubts about the movant's likelihood of success." *Id.* Thus, even in the case where the Court finds that the movant has failed to establish a likelihood of success early on and before discovery occurs, *Waste Management* quite clearly dictates that a movant may still be entitled to temporary interlocutory relief

simply to maintain the status quo, if such be in the public's interest, as the Court in *Waste Management* specifically held that:

"... a court may take a less rigid view of the Crowe factors and the general rule that all factors favor injunctive relief when the interlocutory injunction is merely designed to preserve the status quo."

[*Id.*]

The Court in *Waste Management* continued:

"[t]his less rigid approach, for example, permits injunctive relief preserving the status quo even if the claim appears doubtful when a balancing of the relative hardships substantially favors the movant, or the irreparable injury to be suffered by the movant in the absence of the injunction would be imminent and grave, or the subject matter of the suit would be impaired or destroyed.

[*Id.*]

LEGAL ARGUMENT:

POINT I:

**THE LEGAL RIGHTS OF THE PARTIES ARE
CLEARLY ESTABLISHED AND PLAINTIFF CAN
SHOW A PROBABILITY OF SUCCESS ON THE MERITS
AND A RIGHT TO MAINTAIN THE STATUS QUO:**

As to the first two prongs Plaintiffs submit that the legal rights of the parties are clearly established (*See infra.*) and that Plaintiff can demonstrate a reasonable probability of

success on the merits (See *infra.*) and certainly can show a right to

"Stay" to maintain the status quo of the parties before August 4, 2020.

1. The Disqualifying Conflict and Disqualifying Appearance of Impropriety Requires Disqualification of Municipal Attorney Defendant Riordan and as a Matter of Law Renders the Entirety of the Challenged Ordinance Void.

A. Disqualification of Attorney Riordan:

Firstly, as a preliminary matter, Plaintiffs hereby move for an Order disqualifying Borough of Point Pleasant Municipal Attorney Kevin B. Riordan, Esq. and all members of his law firm from representing any of the Public Elected Officials and Public Entity Defendant Borough of Point Pleasant Borough in this case due to an actual disqualifying conflict of interest and /or alternatively or cumulatively for a disqualifying appearance of impropriety, neither which may be waived by the Defendants.

Whether Borough of Point Pleasant City Attorney Kevin B. Riordan, Esq. and his law firm should be allowed to represent any of the Defendants in this case (except of course himself) is a threshold issue that, now specifically raised, must be decided first by this Court before this Court continues on and decide the other requests for relief in the Order to Show Cause. Plaintiffs are not the first to raise the issue. The issue was specifically raised on August 4, 2020 by Councilperson Robert Santanello with

the colloquy and vote on disqualification of Mr. Riordan being so significant it is repeated here again a second time, as follows:

COUNCILMAN SANTANELLO: ... *** ... What I'm going to tell you, now, should chill you to the bone. I already stated repeatedly that Riordan is a walking, breathing, conflict of interest to residents as the borough Attorney. He's the head of the Republican Party in town and the Committee Chair of the (indiscernible).

Over the last week, he has called Councilman Migut and Cortes to try to twist their arms to get them to change their votes. And he tried it again today with Councilman Cortes. So how could a Borough Attorney actively advocate for an ordinance that he is going to build an obscene amount of money from and through inevitable litigation? That goes beyond politics. It goes beyond logic. It goes be on ethics and, in my opinion, is outright corruption. He's here to give us legal advice, not to (indiscernible) ordinance for his own enrichment.

Even worse, he told Councilman Cortes that once he was done convincing him that he should change his mind, and that Andy should then call me and pretend that on his own he wanted to asked me to change my vote as well. He's encouraging a sitting Councilman to lie to another sitting Councilman. That's just despicable. And I'm horrified that he is entrusted with such an important position.

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defend this ordinance, and I would suggest to you that that's my firm.

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COUNCILMAN TESTA: No.

MS. FARRELL: Councilwoman Byrnes.

COUNCILWOMAN BYRNES: That's a no.

MS. FARRELL: Councilman Cortes.

COUNCILMAN CORTES: Yes.

MS. FARRELL: Councilman Santanello.

COUNCILMAN SANTANELLO: Yes.

MS. FARRELL: Councilman Migut.

COUNCILMAN MIGUT: Yes.

***[NOTE: with a 3/3 tie vote, the Mayor may cast a vote to split the tie]**

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just take a pass because I don't even want
to (indiscernible). ***

[August 4, 2020 in Transcript of Meeting at Page 44, Line 10
through Page 48, Line 14].

The fact is that Defendant Riordan owed an ethical duty to ALL members of the Governing Body - which was evenly split - and rather than give objective, good and fair legal advice, knowing that the Ordinance was invalid in many diverse ways, nevertheless secretly advocated and lobbied behind the scenes for the three dissenters to change their "No" votes to "Yes" votes, including suggesting and encouraging Council Members he approached to lie about his involvement and activity! The political positions in the Republican Party he simultaneously holds and his actions in this matter make it clear that - at least as to the Challenged Ordinance in this case - that Defendant Riordan's loyalty and fidelity was solely to the Mayor, and not to the entire Council who were his clients. Clearly in secretly advocating for a controversial and clearly illegal Ordinance Defendant Riordan's actions indicated that he was not performing his duties on behalf of the municipality but rather that he was engaging in such conduct for individual interests which were adverse to at least 3 of his clients on the Council.

N.J.S.A. 40A:9-139 provides as follows:

In every municipality the governing body, by ordinance, shall provide for the appointment of a municipal attorney who may be designated as the corporation counsel or municipal attorney and unless otherwise provided by law the term of office of the municipal attorney shall be 1 year.

[N.J.S.A. 40A:9-139].

In *N.J. Advisory Committee on Professional Ethics Opinion 174*, 93 N.J.L.J. 132 (1970) the Committee stated the following bright line rule with regard to a Municipal Attorney:

The attorney for the municipality represents the whole municipality. In so doing he also represents individual officials of the municipality in the performance of their official duties. Accordingly, the municipal attorney is performing one of the duties for which he is employed when he represents a municipal official on municipal matters.

The occasion may arise, however, when the official's actions or testimony indicate that he is not performing his duties on behalf of the municipality or that his individual interests or actions run contrary to the interests of the municipality. In that event the attorney must withdraw from the representation of the official who should seek separate counsel. (Emphasis added).

[See *N.J. Advisory Committee on Professional Ethics Opinion 174*, 93 N.J.L.J. 132 (1970)].

Plaintiffs contends that the foregoing facts give rise to actual disqualifying conflicts of interest requiring disqualification of Mr. Riordan and his law firm as attorneys for the individual Defendants and the Defendant Borough in this

case (except himself) based upon the applicability of the following specific rules.

First, *R.P.C.* 1.7(a) provides in relevant part as follows:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client of the representation involves a concurrent conflict of interest. A concurrent conflict exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer. * * *

[*R.P.C.* 1.7(a)]

Next, *R.P.C.* 1.8 provides in relevant part as follows:

* * *

(b) Except as permitted or required by these rules, a lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client after full disclosure and consultation, gives informed consent.

* * *

(i) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.

(j) A lawyer employed by a public entity, either as a lawyer or in some other role, shall not undertake representation of another client of the representation presents a substantial risk that the lawyer's responsibilities to the public entity would

limit the lawyer's ability to provide independent advice or diligent and competent representation to either the public entity or the client.

(k) A public entity cannot consent to a representation otherwise prohibited by this rule.

[R.P.C. 1.8(b), (i), (j) & (k)].

Lastly, R.P.C. 3.7 provides as follows:

(a) A lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness unless:

- (1) the testimony relates to an uncontested issue;
- (2) the testimony relates to the nature and value of legal services rendered in the case; or
- (3) disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by R.P.C. 1.7 or R.P.C. 1.9.

[R.P.C. 3.7].

The Defendant Borough of Point Pleasant Beach, as a public entity, and the Defendant public officials sued in their official capacity, unlike a private person or private business entity, may not consent to allow Mr. Riordan to continue representing their legal interests in the face of the enumerated actual conflicts. See R.P.C. 1.8(k) and R.P.C. 1.9(d). As such, as a threshold matter, the Court must enter an Order and formally and

specifically disqualify Mr. Riordan and his law firm from representing any Defendant in this case.

Moreover, this improper conduct on the part of Mr. Riordan carried legal consequences as to the validity of the challenged Ordinance. Under any scenario, in light of the nature of the legal claims asserted, Mr. Riordan will most certainly be a fact witness during discovery and at trial and must be disqualified for this additional reason alone. *R.P.C.* 3.7.

The foregoing clearly rise to the level of a "disqualifying" conflicts of interest within the meaning of the law which requires an accompanying declaration that the challenged Ordinance is *per se VOID*. See *Wyzykoski v. Rizas*, 132 N.J. 509 (1993); *Lafayette v. Board of Freeholders of Sussex*, 208 N.J. Super. 468 (App. Div. 1986); *Griggs v. Princeton*, 33 N.J. Super. 207 (1960); *Van Itallie v. Borough of Franklin Lakes*, 28 N.J. 258 (1958).

APPEARANCE OF IMPROPRIETY:

Alternatively or cumulatively to the actual conflicts, Plaintiff submits that Mr. Riordan and his law firm must be disqualified from representing the Defendants in this case due to what is clearly a disqualifying appearance of impropriety.

The State of New Jersey is one of the few states that retains the "appearance of impropriety rule" with regard to

attorney conflicts of interest, rejecting the less stringent approach to attorney disqualification advocated by the American Bar Association. *In re Petition for Review of Opinion No. 569*, 103 N.J. 325, 330 (1986). For example, in *State v. Needham*, 298 N.J. Super. 100 (Law. Div. 1996) the Superior Court disqualified an attorney from representing a criminal defendant where the attorney had previously represented the chief prosecution witness in a completely unrelated matter. The Court found that "... such representation would create the appearance of impropriety and that the defense attorney should be disqualified." *Id.* at 135-136. New Jersey Courts have uniformly and repeatedly held that when there is an appearance of impropriety in an attorney's representation of a client that the representation may not be permitted and must cease. *See Id. and Ibid; see also State v. Catantoso*, 222 N.J. Super. 661, 644 (Law Div. 1987); *State v. Morelli*, 152 N.J. Super. 67, 70 (App. Div. 1977); *In re Abrams*, 56 N.J. 271, 277 (1970). The question as to whether there is an appearance of impropriety is to be viewed and judged from the "viewpoint of the public". *Opinion 569, supra*, 103 N.J. at 331. Even in circumstances where there is the absence of an actual conflict of interest, "[a]pperances too are a matter of ethical concern, for the public has an interest in the reput[e] of the legal profession." *In re Abrams, supra*, 56 N.J. at 277. It is

emphasized that the question as to whether there is an appearance of impropriety requiring disqualification is to be viewed and judged from the "viewpoint of the public". *Opinion 569, supra*, 103 N.J. at 331. Certainly in the eyes of the public (Councilman Santanello and Resident Robert Moreau) the actions of Defendant Riordan, if not an actual literal violation of the Ethics Rules of Professional Conduct for Attorneys, creates at the very least a disqualifying "appearance of impropriety" requiring Defendant Riordan's disqualification from any further participation in representing others in this matter. Lastly and in this regard, challenged Government action (in this case, passage of the challenged Ordinance) must be voided where the Court finds a disqualifying conflict of interest such as here. See *Wyzykoski v. Rizas*, 132 N.J. 509 (1993); *Lafayette v. Board of Freeholders of Sussex*, 208 N.J. Super. 468 (App. Div. 1986); *Griggs v. Princeton*, 33 N.J. Super. 207 (1960); *Van Itallie v. Borough of Franklin Lakes*, 28 N.J. 258 (1958). Additionally, Defendant Riordan specifically qualifies as a "local government officer" within the meaning of the New Jersey Government Ethics Law, N.J.S.A. 40A:9-22.1 to -22.5 ("N.J.G.E.L."). See New Jersey Attorney General Formal Opinion No. 91-0092 (September 30, 1991) (finding that a Municipal Attorney is a "local government officer" within the meaning of the N.J.G.E.L.). Defendant

Riordan is also qualifies as a "local government officer" within the general legal meaning of such term. See *Lafayette v. Board of Freeholders of Sussex*, 208 N.J.Super. 468 (App. Div. 1986). The propriety of the conduct of Defendant Riordan is required to be evaluated by this Court against the standards of the New Jersey Rules of Professional Conduct for Attorneys (R.P.C.). When a declaratory judgment action or a prerogative writ action has been brought to challenge official government action taken by any government official, if a claim of conflict of interest and / or appearance of impropriety is raised, a Court is required to review the totality of the actions of the local government officers - including the actions of the municipal attorney - and the propriety of his or her participation and actions of all such local government officers, all to ensure that the challenged proceedings and decision have been conducted in accordance with law and constitutional mandate and without any disqualifying conflict of interest and / or without a disqualifying appearance of impropriety. Once again, if the Court finds that the challenged proceedings and decision have in fact been conducted contrary to law and in the face of either a disqualifying conflict of interest and / or in the face of a disqualifying appearance of impropriety existed, the challenged decision **shall be voided** by the Court. See *Wyzykoski v. Rizas*, 132 N.J. 509

(1993); *Lafayette v. Board of Freeholders of Sussex*, 208 N.J.Super. 468 (App. Div. 1986); *Griggs v. Princeton*, 33 N.J.Super. 207 (1960); *Van Itallie v. Borough of Franklin Lakes*, 28 N.J. 258 (1958).

In addition to legal ethical considerations and the appearance of impropriety, there are blunt political considerations which must also be considered in this context. Defendant Riordan is by no small coincidence, in addition holding employment as the Borough Attorney, also the Republican Party Municipal Party Chairman⁴ and (on information and belief) the President of the Point Pleasant Beach Republican Club. At present

⁴ N.J.S.A. 19:5-2 (Membership and organization of municipal committees) provides in relevant part as follows:

The members of the municipal committees of political parties shall consist of the elected members of the county committee resident in the respective municipalities. ... *** ... The members of each committee shall elect some suitable person who shall be a resident of such municipality as chairman. The municipal committee shall have power to adopt a constitution and bylaws for its proper government. The chairman shall preside at all meetings of the committee, and shall perform all duties required of him by law and the constitution and bylaws of such committee.

(Emphasis added).

[N.J.S.A. 19:5-2].

there are 3 Democrats and 3 Republicans on the Council, and when there is a "tie", the Republican Mayor, Defendant Kanitra, can vote to break any tie. When objections were made to the New Ordinance and litigation was expected, Defendant Riordan wrote a Legal Memo (to date, still confidential) for the governing body. In light of the actual law, it is hard to imagine an honest accurate competent legal opinion that would advise the Defendants to proceed in light of the many and diverse ways that the New Ordinance is *ultra vires*, invalid, unconstitutional and illegal. However, Defendant Riordan will (if allowed to remain as counsel of record for Defendants) bill the public fisc tens of thousands of dollars (if not more) in legal fees for defending this New Ordinance before this is over, yet Defendant Riordan must know (or should know) that in the end, if challenged in Court, that there is little to no change of prevailing. The legal deficiencies were obvious to those Democratic non-lawyers on the Council that voted "no". The 4 Republicans who voted "yes" are at the mercy of Defendant Riordan to maintain their spot on the primary ballot. The behind the scenes lobbying by the Borough Attorney (never denied) is not only wrong, but in context of his positions with the local political party which controls all 4 "yes" votes renders his participation in this matter all the more egregious.

Lastly, in this case it is clear Attorney Riordan will at a minimum be required to appear as a fact witnesses in this case regarding the conflict of interest and appearance of impropriety causes of action, so even if the Court declines to void the Ordinance for conflict reasons, he must be disqualified anyway.

2. The Defendant Municipality has no Authority to Regulate Plaintiffs' Private Property Beach Whatsoever rendering the Entirety of the Challenged Ordinance in General Invalid as *Ultra Vires*.

A. Limited Authority Delegated by the State Legislature to Local Municipalities to Regulate by Ordinance:

Article 4, §VII, par. 11 of the New Jersey State Constitution (1947) defines the parameters of regulatory powers a local municipality or county government may exercise, providing as follows:

The provisions of this Constitution and of any law concerning municipal corporations formed for local government, or concerning counties, shall be liberally construed in their favor. The powers of counties and such municipal corporations shall include not only those granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by this Constitution or by law. (Emphasis added).

[New Jersey State Constitution (1947), Article 4, §VII, par. 11].

The definition of "municipalities" includes cities, towns, townships, villages, and boroughs, and any "... municipality

governed by a board of commissioners, or improvement commission."

See N.J.S.A. 40:42-1. Defendant Borough of Point Pleasant Beach clearly qualifies as a "municipality" under the cited New Jersey State Law.

In N.J.S.A. 40:48-1 the New Jersey State Legislature enumerated thirty four (34) specific defined areas⁵ where the State specifically delegated to the governing body of every local municipality the authority to may make, amend, repeal and enforce ordinances to regulate specific issues.

An additional *specific* enumerated grant of regulatory authority is N.J.S.A. 40:48-1.2 which specifically permits a local municipality to, by Ordinance, prohibit underage possession and/or underage consumption of alcohol on private property. See detailed discussion, *infra*.

In addition to the *specific* enumerated grants of regulatory authority found in N.J.S.A. 40:48-1 and N.J.S.A. 40:48-1.2, next is N.J.S.A. 40:48-2 where the State Legislature grants municipalities such as Defendant Borough of Point Pleasant Beach

⁵The thirty four (34) enumerated specific areas listed, as briefly identified by their point headings in the statute itself are the following: (1) Finances and property; (2) Contracts and contractor's bonds; (3) Officers and employees; duties, terms and salaries; (4) Fees; (5) Salaries instead of fees; disposition of fees; (6) Maintain order; (7) Punish beggars; prevention of loitering; (8) Auctions and noises; (9) Swimming; bathing costume; prohibition of public nudity; (10) Prohibit annoyance of persons or animals; (11) Animals; pounds; establishment and regulation; (12) Hucksters; (13) Building regulations; wooden structures; (14) Inflammable materials; inspect docks and buildings; (15) Dangerous structures; removal or destruction; procedure; (16) Chimneys and boilers; (17) Explosives; (18) Firearms and fireworks; (19) Soft coal; (20) Theaters, schools, churches and public places; (21) Excavations; (22) Sample medicines; (23) Boating; (24) Fire escapes; (25) Care of injured employees; (26) Bulkheads and other structures; (27) Lifeguard; (28) Appropriation for life-saving apparatus; (29) Fences; (30) Advertise municipality; (31) Government Energy Aggregation Programs; (32) Joint municipal action on consent for the provision of cable television service; (33) Private cable television service aggregation programs; (34) Protective Custody.

general police power and authority to enact ordinances, regulations, rules and by-laws that are consistent with New Jersey State and Federal Law for, *inter alia*, the "... preservation of the public health, safety and welfare of the municipality and its inhabitants." *Id.* See also *Township of Chester v. Panicucci*, 62 N.J. 94 (1973) (Where the New Jersey Supreme Court recognized the general proposition that N.J.S.A. 40:48-2 grants municipalities "... broad police power over matters of local concern and interest.").

Lastly - and not at issue in this case - the "New Jersey Municipal Land Use Law", N.J.S.A. 40:55D-1 et seq., also grants local municipalities the power to, by Ordinance, enact a master plan to set land-use priorities and direction, as well as the power and authority to adopt a Zoning Ordinance to dictate where and in what form development should happen.

In sum, local municipalities are limited in their authority and jurisdiction over private persons and private property. A municipality must act with a discernable source of authority delegated by the State Legislature, and at all times such local Ordinance may only regulate either areas expressly authorized by the State Legislature or "... those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by

this Constitution or by law." *New Jersey State Constitution* (1947), Article 4, SVII, par. 11.

B. Limitation on Municipal Authority and Pre-Emption Generally:

While a municipality indeed has somewhat broad police powers conferred by N.J.S.A. 40:48-2 over matters of local concern, such power has limits, and must be exercised along with an accompanying delegation of authority to do so, otherwise the actions of a local municipality are without or beyond legal authority and *ultra vires*. Moreover, even when there is lawful authority to act and regulate by Ordinance, it is well known and clearly established that such authority may not be exercised in an "arbitrary, capricious and unreasonable manner." See *Riggs v. Long Beach Township*, 109 N.J. 601 (1988).

The New Jersey State Legislature has codified its intent that the New Jersey Code of Criminal Justice ("Title 2C") is to set one uniform statewide set of standards for conduct that is criminalized, and an area may be **statutorily preempted** ("statutory pre-emption") and beyond the authority and reach of local government to regulate whether by specific inclusion ("pre-emption") or by intentional exclusion ("preemption by exclusion") from the Criminal code. See N.J.S.A. 2C:1-5(d) and detailed discussion, *infra*.

Lastly, there are circumstances where the regulation of a subject matter by the State of New Jersey may operate to preempt ("Judicial Pre-Emption") a local municipality from using a local municipal ordinance from also regulating that very same subject matter. As a general matter, a "... municipality may not contradict a policy the Legislature establishes." *Summer v. Teaneck*, 53 N.J. 548, 554 (1969) (citing *Auto-Rite Supply Company v. Mayor & Township Committeemen of Woodbridge*, 25 N.J. 188, 194 (1957)). When the Legislature has preempted a field by comprehensive regulation, a municipal ordinance attempting to regulate the same field is void if the municipal ordinance adversely affects the legislative scheme. *Fair Lawn Education Association v. Fair Lawn Board of Education*, 79 N.J. 574, 586 (1979); *Summer v. Township of Teaneck*, 53 N.J. 548, 554 (1969). Preemption is a judicially created doctrine which supports the elementary principle that a municipality cannot act contrary to the State. *Summer, supra*, 53 N.J. at 554.

The pertinent questions for consideration in determining the applicability of preemption are:

1. Does the ordinance conflict with state law, either because of conflicting policies or operational effect (that is, does the ordinance forbid what the Legislature has permitted or does the ordinance permit what the Legislature has forbidden)?

2. Was the state law intended, expressly or impliedly to be exclusive in the field?
3. Does the subject matter reflect a need for uniformity?
4. Is the state scheme so pervasive or comprehensive that it precludes coexistence of municipal regulation?
5. Does the ordinance stand "as an obstacle to the accomplishment and execution of the full purposes and objectives" of the Legislature?

[Overlook Terrace Management Corporation v. Rent Control Board of West New York, 71 N.J. 451, 461-62 (citations omitted).]

In sum, as a general proposition, an objective and comprehensive review of all applicable delegations of authority by the State Legislature to local municipalities show no legal authority (express or implied) that has been delegated to allows the Defendant Municipality to regulate Jenkinson's private property beach as they have done. Just as the local municipality can NOT enact an Ordinance that prohibits adults over 21 years of age from possessing or consuming alcoholic beverages in their back yard at an outdoor party held in their private back yard, the local municipality is powerless to regulate Jenkinson's private property beach. Research reveals that along the entire Atlantic Coast in Monmouth and Ocean Counties where there are several private beach clubs, only this Defendant has asserted any right to regulate private property beaches. This is an ultra

vires exercise of delegated power and as such the entirety of the regulations - as apply to PRIVATE property - must be declared illegal and enjoined.

3. The Specific Attempt to Regulate "Noise" and Constitutionally Protected "Speech" Here by the Defendant Local Municipality Must be Declared Void by this Court:

§21-1.4(3) of the new Challenged Ordinance provides as follows:

§21-1.4 No person shall do any of the following things at or upon the Boardwalk and / or beaches of the ocean waters located in the Borough:

3. Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.

[§21-1.4(3)].

As a threshold matter, Plaintiffs' repeat their position that the Borough of Point Pleasant Beach has no delegated lawful authority to regulate private conduct on the private property beach at issue. See Point I(2), *supra*. Moreover, if §21-1.4(3) is treated and viewed by the Court as a "General Noise" Ordinance regulation then it is cumulatively invalid as *ultra vires*. If §21-1.4(3) is treated and viewed by the Court as a "General Nuisance" Ordinance regulation enacted under the general "police power" conferred in N.J.S.A.40:48-2, then the regulation is unconstitutionally vague. Either way, and no matter how viewed, under any and every possible scenario, the noise and sound

restrictions in §21-1.4(3) are invalid and must be declared so by this Court and the Defendants must be enjoined from enforcing this invalid and absurd Ordinance.

A. Limited Delegated Municipal Authority to Enact a General "Noise Control Ordinances":

Prior to 1971 many local municipalities enacted "Noise Ordinances" under the general police powers delegated to them by the Legislature in *N.J.S.A.* 40:48-2. However, in 1971 the Legislature enacted the "Noise Control Act of 1971" ("NCA"), L.1971, c.418, s.1, *et seq.* (effective January 24, 1972), now codified at *N.J.S.A.* 13:1G-1 to -23. In this regard, the State Legislature at all times retains the right to reallocate previously delegated municipal power away from a local Municipality partially to or completely to a State Agency. That is exactly what the NCA did by vesting enumerated power in the New Jersey Department of Environmental Protection ("DEP") over the regulation of noise in the State of New Jersey. Under the authority of the NCA the DEP thereafter enacted regulations comprehensively dealing with all issues relevant to noises and regulation of noises. Mindful, however that many local municipalities had enacted local noise control ordinances, the State Legislature included s. 21, now codified at *N.J.S.A.* 13:1G-21, which provided and still provides as follows:

No existing civil or criminal remedy now or hereafter available to any person shall be superseded by this act or any code, rules, regulations or orders promulgated pursuant thereto.

No ordinances or resolutions of any governing body of a municipality or county or board of health which establish specific standards for the level or duration of community noise more stringent than this act or any code, rules, regulations or orders promulgated pursuant thereto shall be superseded. Nothing in this act or in any code, rules, regulations or orders promulgated pursuant thereto shall preclude the right of any governing body of a municipality or county board of health, subject to the approval of the department, to adopt ordinances, resolutions or regulations which establish specific standards for the level or duration of community noise more stringent than this act or any code, rules or regulations promulgated pursuant thereto.

[N.J.S.A. 13:1G-21].

In accordance with N.J.S.A. 13:1G-21, the DEP adopted implementing regulations to deal with the limited delegation of municipal authority to regulate noise in N.J.A.C. 7:29-1.8, which reads as follows:

- (a) A governing body of a municipality or county or board of health may adopt a noise control ordinance in accordance with the Noise Control Act of 1971, N.J.S.A. 13:1G-21, provided that the ordinance shall be more stringent than the Noise Control Act or the regulations promulgated pursuant

thereto, must be otherwise consistent with the Statewide scheme of noise control, in meets with the written approval of the Department.

- (b) Enforcement of a noise control ordinance is limited to the authorized enforcement agency as specified in the ordinance and enforcement actions shall be conducted in accordance with N.J.S.A. 9:29-1.7.

[N.J.A.C. 7:29-1.8].

While the regulation of noise by the DEP is not completely pre-empted by the NCA, the NCA and implementing regulations impose two material restrictions upon the very limited delegated authority to a local municipality to regulate or otherwise control noise through local ordinance:

First: The NCA and DEP Administrative Regulations permit local municipalities the limited power to enact ordinances with greater but not lesser noise restrictions, N.J.S.A. 13:1G-21 & N.J.A.C. 7:29-1.8;

AND

Second: The NCA and DEP Administrative Regulations requires that any municipality enacting a noise control ordinance submit the proposed ordinance to the DEP for review approval before it may be enacted, *Id.*, and moreover the approval given by the DEP of the proposed local Ordinance must be **in writing**. N.J.A.C. 7:29-1.8(a).

Only after written approval is given by the DEP can a municipality legally enact a local noise control Ordinance.

Lastly, to assist local municipalities, the DEP has issued a "Model Noise Ordinance", the most recent updated version being from December 19, 2014.

In this case it is undisputable that Defendant Borough of Point Pleasant Beach never submitted their proposed noise ordinance to the DEP, and it therefore equally undisputable that the DEP never approved §21-1.4(3) in writing before it was enacted (or re-enacted) on August 4, 2020. As such, as a matter of fact and law, §21-1.4(3) is *per se* invalid as an *ultra vires* "Noise Control Ordinance" for failure to comply with the mandatory review and approval process found in *N.J.S.A. 13:1G-21* & *N.J.A.C. 7:29-1.8*.

B. If §21-1.4(3) is Viewed "General Nuisance" Quality of Life Regulation Then it Still Invalid as it is Unconstitutionally "Vague":

If §21-1.4(3) is treated and viewed by the Court as a "General Nuisance" Ordinance regulation enacted under the general "police power" conferred in *N.J.S.A.40:48-2* (rather than the "Noise Ordinance" that it actually is), then the regulation is unconstitutionally vague as to what volume is prohibited. The relevant portion of §21-1.4(3) makes it illegal to "... *Make any loud noise, sound or music to the annoyance of any other person, or use loud, profane or indecent language.*" §21-1.4(3) contains no discernable objective standard of how loud is too loud and a

violation of law: Rather, liability attaches upon offending the subjective sensibilities of literally "... any other person ...".

Both the Federal and State Constitutions render vague laws unenforceable. See *United States Constitution*, Amend. V; *New Jersey State Constitution* (1947) Art. I, par. 1. The evils of constitutionally vague laws were explained in *Grayned v. City of Rockford*, 408 U.S. 104, 108-109 (1972) (footnotes omitted):

Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.

[*Grayned v. City of Rockford*, supra, 408 U.S. at 108-109].

The constitutional ban on vague laws is intended to invalidate regulatory enactments that fail to provide adequate notice of their scope and sufficient guidance for their application. *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972). The requirement of statutory clarity "... is

essentially a due process concept grounded in notions of fair play." *State v. Lashinsky*, 81 N.J. 1, 17 (1979); accord *State v. Lee*, 96 N.J. 156, 165 (1984). For a local ordinance to survive a challenge under the Vagueness Doctrine, the plain text of the ordinance must enable a person of "... common intelligence, in light of ordinary experience" to understand whether contemplated conduct is lawful. *Lashinsky, supra*, 81 N.J. at 18. An ordinance that is challenged for facial vagueness is one that is assertedly impermissibly vague in all its applications, whereas a statute that is challenged as applied, however, need not be proven vague in all conceivable contexts, but must be shown to be unclear in the context of the particular case.

In *State v. Krause*, 399 N.J. Super. 579 (App. Div. 2008) and *State v. Clarksburg Inn*, 374 N.J. Super. 624 (App. Div. 2005) the Appellate Division upheld local Nuisance Noise Ordinances that each employed a so called "100 foot rule": If the sound could be heard 100 feet from the origin, then it was too loud. That was the offending standard. While not a perfect uniform objective standard, at least the "100 foot rule" was something that resembled a uniform objective standard, gave notice to the public of the standard, and therefore while not ideal, the ordinances did not rise to the level of being unconstitutionally vague.

Here the challenge ordinance is clearly unconstitutional as violating the vagueness doctrine. There is no scenario where the plain wording of §21-1.4(3) could survive any level of review. §21-1.4(3) is not only unconstitutionally vague, it is so embarrassingly obviously vague that any layperson can see the deficiency. And indeed, that is what happened during adoption process, where Councilman Santanello (who ultimately voted against the Ordinance) expressed the opinion that §21-1.4(3) was clearly obviously unconstitutionally vague, stating:

I like the part about the - - all right. So here's what I - - I think the thing about loud noises, using bad language, the way it reads is kind of ridiculous. It says to the annoyance of any other person. Well, who's the judge of that? I mean, give an example, I hate country music. So does that mean I get to call the police if I hear a Luke Bryan song, or if somebody going past the Cochran House playing their music, do they get the call as well? I think this part opens us to massive litigation because it's terribly weak and unenforceable. And I don't think were going to have the police have the decibel meters (indecipherable).

[See July 21, 2020 Transcript at Page 52 Line 2 to Line 14].

C. The Specific Portion of §21-1.4(3) That Makes it Illegal to Use "... profane or indecent language ..." Violates the United States Constitution's First Amendment and Article I, paragraph 6 of the New Jersey State Constitution (1947):

50 years ago in *Cohens v. California*, 403 U.S. 15 (1971) the United States Supreme Court issued an opinion that has been

hornbook law for 50 years, ruling that government officials can not punish a person simply because he or she expresses profanity in public. Cohen had worn a jacket with the phrase "Fuck the Draft" inside a California Court House. The Supreme Court ruled that governments might seize upon the censorship of particular words as a convenient guise for banning the expression of unpopular views." To the extent that the section of §21-1.4(3) reading "... *profane or indecent language* ..." could possibly survive a the vagueness challenge (or not), it is cumulatively clear that this absolute and *per se* bar on all "profane" or "indecent" language (whatever *that* means) also facially violates the Federal and State Constitution's right to free speech.

4. The Municipality has no Authority Whatsoever to Regulate the Possession and Consumption of Alcohol on Private Property by Persons Aged 21 Years or Older:

§21-1.4(5) of the Ordinance provides as follows:

§21-1.4. No person shall do any of the following things at or upon the Boardwalk and / or beaches of the ocean waters located in the Borough:

- 5.** Take any intoxicating liquor upon the beach, or any glass containers or bottles.

[§21-1.4(5)].

As will be shown and explained, a local municipality such as the Borough of Point Pleasant Beach has (with one exception not

applicable here) no authority whatsoever to enact a local Ordinance regulating the possession and / or consumption of alcoholic beverages on private property by adults 21 years or older.

To start, the New Jersey State Legislature has fixed the age of 21 years of age or older as the legal minimum age for a person in New Jersey to "... purchase and consume alcoholic beverages ... [.]” See N.J.S.A. 9:17B-1(b).⁶ Therefore, it is illegal and a violation of State civil statutory law for a person under 21 years of age to purchase, possess or consume alcoholic beverages. Additional to the civil statutory law, any person under 21 years of age found guilty of having purchased or possessed or consumed any alcoholic beverage "... in any school, public conveyance,

⁶N.J.S.A. 9:17B-1(b) provides as follows:

The Legislature finds and declares and by this act intends, pending the revision and amendment of the many statutory provisions involved, to:

- b. Extend to persons 21 years of age and older the right to purchase and consume alcoholic beverages on January 1, 1983, provided that anyone attaining the age to purchase and consume alcoholic beverages legally prior to January 1, 1983, shall retain that right. Nothing in this act shall preclude any licensee under R.S. 33:1-1 et seq. from making purchases in the regular course of his licensed activities.

public place, or place of public assembly, or motor vehicle, is guilty of a violation of state statutory criminal law (disorderly persons offense), and shall be fined not less than \$500.00." (Emphasis added). N.J.S.A. 2C:33-15(1)(a). Under such circumstances upon conviction there are additional enhanced penalties for when a motor vehicle is involved, the court upon sentencing after conviction is authorized to require participation in an alcohol education or treatment program as part of the sentence, and there are immunity provisions written into the law to ensure that underage drinkers are not deterred from calling for medical assistance. *Id.* Significantly, the State Criminal Statute by its express terms only applies to conduct **on public property**.

Just as it is a crime for an underaged person to purchase or possess or consume alcohol beverages, it is equally a violation of State criminal statutory law (disorderly persons offense) to "... serve or make[] available ... or entice or encourage ... [a] person to drink an alcoholic beverage..." to anyone under 21 years of age. N.J.S.A. 2C:33-17(1)(a). It is also a violation of State criminal statutory law (disorderly persons offense) for an owner of property to make the property available to other persons "... with the purpose that alcoholic beverages will be

made available for consumption ... by persons who are under the legal age ... [.]” N.J.S.A. 2C:3317(1)(b).

In recent years, because of issues and concerns with **underage drinking on private property**, and after Courts had invalidated local ordinances that sought to regulate underage drinking on private property, ruling the subject as *ultra vires* as “pre-empted by exclusion” as per N.J.S.A. 2C:1-5(d), the State Legislature enacted both N.J.S.A. 40:48-1(6)⁷ and N.J.S.A. 40:48-1.2⁸ as new law so as to specifically delegate to local municipalities the power and authority to, by local ordinance,

⁷ N.J.S.A. 40:48-1(6) provides as follows:

Maintain order. 6. Prevent vice, drunkenness and immorality; to preserve the public peace and order; to prevent and quell riots, disturbances and disorderly assemblages; **to prohibit the consumption of alcoholic beverages by underage persons on private property pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);** (Emphasis added).

⁸ N.J.S.A. 40:48-1.2 (Enactment of ordinance prohibiting possession, consumption of alcoholic beverages by underaged person on private property, permitted) provides as follows:

1. a. A municipality may enact an ordinance making it unlawful for any person under the legal age who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property. The ordinance shall provide that a violation shall be punished by a fine of \$250 for a first offense and \$350 for any subsequent offense.

b. The ordinance shall provide that the court may, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

prohibit the possession and consumption of alcoholic beverages on private property by underage persons. (Emphasis added). Despite having the express legal authority to do so, the Borough of Point Pleasant Beach has NOT enacted any such local Ordinance.

That said, it important to emphasize that there is no State criminal statute prohibiting the possession and consumption of alcoholic beverages on **private property** by someone under 21years of age. Nor is there any criminal statute prohibiting the possession and consumption of alcoholic beverages on either

If the person convicted under such an ordinance is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

c. (1) No ordinance shall prohibit an underaged person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony, or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

(2) As used in this section:

"Guardian" means a person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

"Relative" means the underaged person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

d. No ordinance shall prohibit possession of alcoholic beverages by any such person while actually engaged in the performance of employment by a person who is licensed under Title 33 of the Revised Statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post secondary educational institution; however, no ordinance enacted pursuant to this section shall be construed to preclude the imposition of a penalty under this section, R.S.33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

public property⁹ or private property by persons over 21 years of age.

Significantly in conferring authority on local municipalities to regulate the possession and / or consumption of alcoholic beverages on private property by minors, not such authority was conferred by the State Legislature on local municipalities to regulate the possession and / or consumption of alcoholic beverages on private property by persons 21 years of age or older. Nor as a general principle is there a state statutory law that prohibits the possession and / or distribution and / or consumption of alcohol on private property by persons

⁹ Many local municipalities have relied upon the general police power conferred in *N.J.S.A. 40:48-2* and the "... necessary or fair implication ..." standard in the *New Jersey State Constitution* (1947), Article 4, §VII, *par. 11* as a source of claimed authority to enact a local ordinance that prohibits drinking alcoholic beverages in public by adults over the age of 21. Preliminary research reveals no published case on this exact issue, and there is no contemplated legal challenge to a municipality's right *to prohibit drinking in public or on public property*. In this regard, please note that the Borough of Point Pleasant Beach has in fact enacted such a local Ordinance, found at § 3-18.1 and 18.2, which provides as follows:

§ 3-18.1 Prohibited and Unlawful Conduct.

Any person who possesses an open container of alcohol and/or possesses an open container of alcohol with intent to consume same in public, and any person who shall consume alcoholic beverages in public is a disorderly person:

- a. While in or on a public street, public parking lot, public boardwalk, public beach, public park or recreation area or in any public conveyance.
- b. In a private motor vehicle while the vehicle is on any public street, lane or parking lot.
- c. While upon any private property not his own without the permission of the owner or person having authority to grant such permission.

§ 3-18.2 Exceptions

Notwithstanding the provisions of Subsection 3-18.1, the mayor and Borough council may by resolution, permit the consumption of alcoholic beverages in any of the places designated in Subsection 3-18.1 in connection with special events or observances which have been authorized by the mayor and council.

By its express terms, local Ordinance § 3-18.1 only applies to possession or consumption of alcoholic beverages "... in **public** ..." generally, and specifically to the "... **public** boardwalk ..." or to the "... **public** beach ...[.]" See § 3-18.1(a). Jenkinsons Beach and Boardwalk are both PRIVATE property. As such, as long as "permission" is given within the meaning of § 3-18.1(c), this local Ordinance does not prohibit possession or consumption of alcoholic beverages on Jenkinsons Boardwalk or on Jenkinsons Beach by persons over the age of 21.

older than 21 years of age. State Park Administrative Regulations¹⁰ make it illegal in most circumstances for adults over 21 years of age to possess and/or consume alcohol in New Jersey State Parks (including State Beaches such as Seven Presidents State Park in Monmouth County and Long Beach Island State Park in Ocean County). See *N.J.A.C. 7:2-2.6*. In *N.J.S.A. 2C:33-27*¹¹ the Legislature specifically confirmed that it is completely permissible and legal for a "... restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public ..." **that does not**

¹⁰ *N.J.A.C. 7:2-2.6* (Alcoholic beverages prohibited) provides as follows:

A person shall not possess and/or consume alcoholic beverages on lands and waters under the jurisdiction of the State Park Service except where the sale, use or possession is specifically approved by the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

¹¹ *N.J.S.A. 2C:33-27* (Consumption of alcohol in restaurants) provides as follows:

- a. No person who owns or operates a restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public, and for which premises a license or permit authorizing the sale of alcoholic beverages for on-premises consumption has not been issued:
 - (1) Shall allow the consumption of alcoholic beverages, other than wine or a malt alcoholic beverage, in a portion of the premises which is open to the public;
OR
 - (2) Shall charge any admission fee or cover, corkage or service charge or advertise inside or outside of such premises that patrons may bring and consume their own wine or malt alcoholic beverages in a portion of the premises which is open to the public.
 - (3) Shall allow the consumption of wine or malt alcoholic beverages at times or by persons to whom the service or consumption of alcoholic beverages on licensed premises is prohibited by State or municipal law or regulation.
- b. Nothing in this act shall restrict the right of a municipality or an owner or operator of a restaurant, dining room or other public place where food or liquid refreshments are sold or served to the general public from prohibiting the consumption of alcoholic beverages on those premises.
- c. A person who violates any provision of this act is a disorderly person, and the court, in addition to the sentence imposed for the disorderly person violation, may by its judgment bar the owner or operator from allowing consumption of wine or malt alcoholic beverages in his premises as authorized by this act.

themselves have a liquor license to permit their customers of legal age to bring in their own beer or wine ("Bring Your Own Bottle") for consumption on the premises with a meal. However, while this conduct on private property is presumptively permissible and legal everywhere, in N.J.S.A. 2C:33-27(b) the Legislature specifically delegated to a municipality or the owner of a restaurant themselves the authority to "... prohibit[] the consumption of alcoholic beverages on those premises ...", *Id.*, with a restaurant owner operating by "policy" and a Municipality acting by enactment of a specifically authorised local Ordinance. Despite being delegated the specific authority to do so, the Borough of Point Pleasant Beach has not enacted a local Ordinance banning the so called B.Y.O.B. practice in restaurants. It is also illegal (a motor vehicle offense) in New Jersey for any person - whether such person is under or over the age of 21 - to have an open container of alcohol in the passenger portion of a private automobile. See N.J.S.A. 39:4-51b.¹² And though not

¹² N.J.S.A. 39:4-51b (Prohibition of possession of open, unsealed alcoholic beverage container, circumstances) provides as follows:

- a. All occupants of a motor vehicle located on a public highway, or the right-of-way of a public highway, shall be prohibited from possessing any open or unsealed alcoholic beverage container. This subsection shall not apply to a passenger of a charter or special bus operated as defined under R.S.48:4-1 or a limousine service.
- b. A person shall not be deemed to be in possession of an opened or unsealed alcoholic beverage container pursuant to this section if such container is located in the trunk of a motor vehicle, behind the last upright seat in a trunkless vehicle, or in the living quarters of a motor home or house trailer. For the purposes of this section, the term "open or unsealed" shall mean a container with its original seal broken or a container such as a glass or cup
- c. For a first offense, a person convicted of violating this section shall be fined \$200 and shall be informed by the court of the penalties for a second or subsequent violation of this section. For a second or subsequent offense, a person convicted of violating this

reduced to statute or administrative regulation, by official "policy" consumption of alcohol by persons over the age of 21 is permitted on New Jersey Transit Trains, but is not permitted on New Jersey Transit Busses. Lastly, purchase and consumption of alcohol is also permitted by persons over the age of 21 at State owned Sports and Entertainment Venues.

In total, the New Jersey State Legislature has by statewide statutory law regulated the purchase, possession and consumption of alcoholic beverages by fixing a minimum age for purchase, possession and consumption at 21 years of age. See N.J.S.A. 9:17B-1(b). The New Jersey State Legislature has by statewide statutory law criminalized the sale or distribution of alcoholic beverages to persons under the age of 21, or to allow underaged persons to use property to drink at underage. See N.J.S.A. 2C:33-17(1)(a) & -17(1)(b). The New Jersey State Legislature has by statewide statutory law criminalized the purchase, possession and consumption of alcoholic beverages in public by persons under the age of 21. See N.J.S.A. 2C:33-15(1)(a). Though it is not a violation of **New Jersey State Criminal Law** for underaged persons to possess or consume alcoholic beverages on private property, the State Legislature has empowered and

section shall be fined \$250 or shall be ordered by the court to perform community service for a period of 10 days in such form and on such terms as the court shall deem appropriate under the circumstances.

authorized local municipal governments to prohibit such conduct by local ordinance. See *N.J.S.A.* 40:48-1(6) and *N.J.S.A.* 40:481.2, though Point Pleasant has not enacted such a local Ordinance. Therefore, depending upon the municipality, it may - or may not - be a violation of a local ordinance for a person under the age of 21 years of age to possess or consume alcoholic beverages.¹³ It is illegal for anyone to possess or consume alcoholic beverages in State Parks and Forrests in accordance with State Administrative Regulations, see *N.J.A.C.* 7:2-2.6, and it is illegal (a motor vehicle violation) for anyone to have an open container of alcoholic beverage in a Motor Vehicle. See *N.J.S.A.* 39:4-51b. Conversely it is not illegal for a person over age the age of 21 to bring beer or wine into a restaurant unless the local municipality has passed an "anti - B.Y.O.B Ordinance" or the restaurant owner himself prohibits it. *N.J.S.A.* 2C:33-27. It is not a violation of ***New Jersey State Criminal or Civil Statutory Law*** for a person over the age of 21 years old to drink alcoholic beverages in public, though some municipalities have used the general police powers conferred by the State Legislature ***to regulate public property*** to prohibit by local Ordinance the drinking alcoholic beverages in public. Consumption of alcoholic beverages by persons over the age of

¹³Frankly very few municipalities have taken advantage of this express grant of authority due to the realities of the inherent difficulties of "enforcing" such laws on private property, because such enforcement is complicated and impractical due to the very real reality that enforcement often results in unconstitutional warrantless entry onto private property.

21 is permitted on New Jersey Transit Trains, is not permitted on New Jersey Transit Busses and can be purchased and consumed by persons over the age of 21 at basically every State owned public Sports and Entertainment Venue.

In this regard, N.J.S.A. 2C:1-5(d) provides as follows:

Notwithstanding any other provision of law, the local governmental units of this State may neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of this code [the New Jersey Code of Criminal Justice] or with any policy of this State expressed by this code, whether that policy be expressed by inclusion of a provision in the code or by exclusion of that subject from the code.

[N.J.S.A. 2C:1-5(d)].

Under this statutory provision, the absence of a state ban on certain conduct indicates a legislative intent to "decriminalize" that conduct, and local regulation prohibiting or otherwise trying to regulate such conduct may be deemed "preempted by exclusion" under N.J.S.A. 2C:1-5(d). In essence the purpose of N.J.S.A. 2C:1-5(d) "preemption" is to ensure that there is one uniform set of criminal or quasi criminal statutes and regulations throughout the states, rather than each municipality having its own version of a criminal code. The regulation of a subject matter by the State of New Jersey Law may

operate to preempt a local municipality from using a local municipal ordinance from regulating that same subject matter. See, e.g., *G.H. v. Township of Galloway*, 401 N.J. Super. 392 (App. Div. 2008), *aff'd*, 199 N.J. 135 (2009) (holding that municipal ordinances prohibiting convicted sex offenders from living within specified distances of schools and other designated facilities were preempted by state law regulating convicted sex offenders); *State v. Crawley*, 90 N.J. 241 (1982) (the legislature's repeal of a state law prohibiting loitering had the effect of preempting by exclusion a Newark ordinance that criminalized loitering).

In the present case, and in totality of context, the State of New Jersey's failure to specifically prohibit possession and consumption of alcoholic beverages by persons over 21 years of age on private property quite clearly was a conscious decision. Otherwise stated, the State Legislature, when making decisions about the regulation and prohibition of the possession and consumption of alcohol by persons over the age of 21, the Legislature quite clearly made a conscious decision to exempt any regulation of private property possession or consumption from the scheme. Indeed, when faced with several Court decisions striking down local Ordinances prohibiting underage drinking on private property based upon *N.J.S.A. 2C:1-5(d)* and the doctrine of "Pre-Emption by Exclusion", the State Legislature decided to amend the

law, but only to confer authority on local municipalities to enact ordinances regulating the possession and consumption of alcohol by persons under the age of 21 on private property. The Legislature, surely aware of the issue, consciously remained silent on authorizing local municipalities authority to prohibit possession and consumption of alcoholic beverages on private property by persons over the age of 21. And by so doing then and there, N.J.S.A. 2C:1-5(d) and the doctrine of "PreEmption by Exclusion" operates to prohibit the Borough of Point Pleasant Beach from prohibiting this conduct now. Any other conclusion is simply intellectually dishonest. Indeed, a group of adults over the age of 21 can drink alcohol without issue while taking a public New Jersey Transit Train to the beach, but once at Jenkinsons privately owned beach such persons are no longer allowed to possess or consume alcohol? Moreover, it is fact that many PRIVATE PROPERTY BEACHES up and down New Jersey's Atlantic coastline permit the drinking and consumption of alcohol on the private property beaches without issue or interference, and there is nothing that the local Municipality is authorized to do to regulate this perfectly legal conduct as local Ordinance regulation is barred by N.J.S.A. 2C:1-5(d) and the doctrine of "Pre-Emption by Exclusion". As such, §21-1.4(5) of the new

Ordinance if invalid and enforcement must be permanently enjoined.

5. The Municipality has no Authority to Mandate by Ordinance That all Patrons to Jenkinson's Private Property Beach be Searched by an 18 Year at All Entry Points:

§21-1.2 of the Ordinance provides as follows:

1. Contraband
2. No one who operates a beach and charges a fee shall allow any employee under the age of 18 to inspect patrons or their possessions for alcohol and/or illegal or controlled substances.
3. If an individual who has paid a fee to access a beach is found in possession of alcohol or controlled substances while on a beach, the beach operator shall be investigated for, and, if warranted charged, with a violation of N.J.S.A. 2C:33-12. Upon a beach operator's conviction for violating N.J.S.A. 2C:33-12 the Borough may seek any and all penalties provided by N.J.S.A. 2C:33-12.1. [§21-1.2].

The cited portions of the new Ordinance are clearly an unconstitutional and *ultra vires* exercise of the power and must be stricken.

Firstly, the Borough has bizarrely mandated that all "beach badge checkers" at the entrance to Jenkinsons' private property beach must suddenly be at least 18 years old or older¹⁴, and has

¹⁴ The regulation of employment ages status is so clearly pre-empted by the State that a separate argument need not be made as it is cumulative to the other legal deficiencies anyway.

also mandated that such private employees are now - by Ordinance - legally responsible for and specifically legally required to conducting illegal warrantless searches of each and every person entering onto the private property beach! While private property beach owner Jenkinson's retains the right at their option to condition entry onto their beach with a patron's submission to a search of their person and effects for contraband, that is not at present the policy. However, a state government law such as this - that literally orders private parties to conduct mandatory searches of private individuals in accordance with the law seeking contraband without a warrant - clearly converts the actions of the otherwise private employees into agents of the municipality and therefore "state actors" who are acting "under color of state law" as they are acting under explicit direction and authority of a local municipal Ordinance exposing both the Defendant Borough, such private employees and Plaintiff Jenkinson's to liability for damages under 42 U.S.C. §1983 for violating the Fourth Amendment rights of citizens to be free from unreasonable warrantless searches.¹⁵ Therefore, such arbitrary

¹⁵ The Federal Courts have identified four circumstances where a private person is a "state actor" for purposes of imposition of liability under §1983. First, under the "close nexus" test, a private party can be fairly said to be a state actor where "... *there is a sufficiently close nexus between the state and the challenged action of the [private] entity so that the action of the latter may fairly be treated as that of the state itself.*" *Blum v. Yaretsky*, 457 U.S. 991, 1004 (1982) (holding state responsible for private decision where it has exercised coercive power or has provided such significant encouragement, either overt or covert, that the choice must be deemed to be that of the State).

Second, under the "symbiotic relationship" test a private party can be fairly said to be a state actor where "... *the state has so far insinuated itself into a position of interdependence ...*" with a private party that "... *it must be recognized as a joint participant in the challenged activity.*" *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 725 (1961) (holding privately owned restaurant's refusal to serve an African American customer constituted state action where the restaurant leased space from a parking garage owned by state agency).

Third, under the "joint action" test a private party can be fairly said to be a state actor where a private party is a "... *willful participant*

mandatory warrantless searches are a *per se* violation of the Fourth and Fourteenth Amendment to the United States Constitution and Article I, paragraph 7 of the *New Jersey State Constitution* (1947).

See eg. *Camara v. Municipal Court*, 387 U.S. 523 (1967) (Fourth Amendment warrant requirement extends and applies to bar warrantless civil and administrative searches by the state or state agents) . To be sure this is a pretty obvious elementary simple "horn book" principle of law. For this elementary and blatantly obvious reason, the mandatory "search" requirements must be stricken as unconstitutional.

Lastly, and even more bizzarely, this section seeks to impose *criminal liability* upon beach operators - such as Jenkinson's - for the wrongful conduct of third parties, something that is beyond the lawful authority of the borough of Point Pleasant Beach to do in the first instance for a variety of reasons, but most simply and obvious being that this attempt to in essence revise and re-write portions of Title 2C by local Ordinance to impose liability where the State has seen fit NOT to

in joint action with the State or its agents." *Lugar v. Edmonson Oil Company, Inc.*, 457 U.S. 922, 941 (1982).

Fourth and lastly, under the "public function" test a private party can be fairly said to be a state actor where the private party has been "... delegated ... power traditionally exclusively reserved to the State." *Terry v. Adams*, 345 U.S. 461, 468-470 (1953) (state action found where private actor administered election of public officials).

A fair application of each of the four examples noted above confirms that Jenkinson's private employees would therefore be exposed to civil liability for illegal warrantless searches of persons under 42 U.S.C. §1983.

impose liability is clearly pre-empted by exclusion in accordance with N.J.S.A. 2C:1-5(d).

6. The Municipality has no Authority to Mandate that Local Municipal Police Actively "Police" Plaintiff's Property Beach:

§21-1.5 of the Ordinance provides as follows: "§ 21-1.5 Policing. The police in the municipality shall police the beaches, Boardwalk, and waterfront located in the Borough." (Emphasis added). §21-1.5

Here, the word "Police" is a verb, directing affirmative conduct and action. Under the old version of the Ordinance, §21-1A.5 (Policing) the Borough directed that: "The Police in the municipality shall police said beach", with "said beach" under the old version of the Ordinance referring only to the small municipal beach, to the clear exclusion of Jenkinsons private property beach. That section has now been modified changed, read in consort with the "new" expanded definition of "beaches" in §21-1.4, means that now the Police are specifically and literally directed to "police" (verb) Jenkinsons private beach, and presumably also the dry sand below the "mean high water line". It is not clear what "policing" entails, but it would necessarily require physical entry onto Jenkinson's private property. Other than the fact that this seems to be an open invitation to make Jenkinson's patrons uncomfortable if not

outright harassed, there is again the BLATANT reality that this is a clear a violation of Jenkinson's private property rights. As a threshold principle the Borough can not simply grant their police department free license to enter onto private property any time they want, as such clearly is a per se violation of the Fourth and Fourteenth Amendments to the United States Constitution and Article I, paragraph 7 of the New Jersey State Constitution (1947). Moreover, regulation of such private property beaches and private property boardwalks is beyond the authority of the local municipality to regulate. See supra. If and when (considerable) taxpayer Jenkinsons needs the assistance of the local municipal police department, they - like all other taxpayers - are certainly free to call for assistance. However, for the reasons stated, the Borough can not create a police state in the middle of private property without the consent of the owner of such private property which has not been given.

POINT II:

**THERE IS A LIKELIHOOD THAT IMMEDIATE AND
IRREPARABLE INJURY WILL OCCUR IF RELIEF IS
NOT GRANTED:**

The law is clear that "... a preliminary injunction should not issue except when necessary to prevent irreparable harm." *Crowe, supra*, 90 N.J. at 132-33. "[H]arm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages." *Id.* Hence, the general rule that an

injunction will not ordinarily issue where there is an adequate remedy at law. *Morris County Transfer Station, Inc. v. Frank's Sanitation Service, Inc.*, 260 N.J. Super. 570, 574 (App. Div. 1992). Here, Plaintiffs have demonstrated their right to relief under this prong as well. The law is well settled that for injunctive relief purposes a Plaintiff satisfies the "irreparable harm" prong of the inquiry if they can demonstrate a constitutional injury. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976). ('[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury"). Here, Plaintiff clearly alleged and proves violations of the First Amendment (Sound Regulations) and Fourth Amendment (Mandating Search of all Patrons) thus satisfies the "irreparable injury" prong as a matter of law.

Moreover, taken further, there is the incontestable reality that the Defendants' requiring and mandating - by local Municipal Ordinance - that Plaintiff's 18 year old employees must search any and all private individuals entering onto their Private Beach for contraband - have clearly as a matter of fact and law (whether knowingly or not) converted such 18 year old employees (and by extension, Plaintiff) into "persons acting under color of state law" for purposes of imposing affirmative civil liability for damages for Fourth Amendment violations under 42 U.S.C. sec.

1983. Worse, Plaintiffs KNOW that this municipal mandated conduct is *per se* illegal, converts them into "state actors" as the conduct is mandated by local Ordinance, see Footnote 15, *supra.*, and a violation of the United States Constitution's Fourth Amendment.¹⁶ To comply with the local Ordinance, knowing what they are doing is wrong as they are doing it, will not only exposes Plaintiffs to nominal and compensatory damages claims, but also to PUNITIVE DAMAGE CLAIMS! See *Smith v. Wade*, 461 U.S. 30, 56 (1983) ("*A jury may be permitted to assess punitive damages in an action under §1983 when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others.*"). Here, the defendant Municipality has literally adopted a *per se* unconstitutional policy and drafted Plaintiffs to "carry it out", and while the Defendant Municipality has exposed themselves and Plaintiffs to §1983 liability for nominal and compensatory damages, local municipalities are immune from punitive damages claims, see *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981), whereas Plaintiffs are not. *Smith v. Wade, supra.*

It is submitted that there is no question that Plaintiff has demonstrated

¹⁶If there was not a local municipal Ordinance mandating these searches, and were Plaintiffs themselves to chose to independently implement such a policy (they have not done so) of requiring a search as a condition to entry onto private property, THAT would be legal. Patrons not wanting to submit to same could simply leave. However, GOVERNMENT mandating searches implicates state action and the Fourth Amendment, and converts Plaintiffs and their employees into "state actors acting under color of state law".

"irreparable damage" within the meaning of the law.

POINT III:

**ON BALANCE, THE BENEFITS OF MAINTAINING
THE STATUS QUO BY GRANTING THE
PRELIMINARY RELIEF REQUESTED OUTWEIGHS
ANY "HARM" OTHER INTERESTED PARTIES MAY
SUFFER:**

It is always and at all times in the "public interest" to for all "state actors" to comply with and not violate the Constitution. There preliminary relief requested does no violence to other interested parties such as the public, but actually serves to vindicate their clearly established constitutional rights.

CONCLUSION:

Plaintiffs submit that they have established that the legal rights of the parties and the applicable law is well settled. Plaintiffs submit that there is no serious question but that they have established a "probability" of success on the merits. A significant portion of the harm alleged is *per se* irreparable under case law. And clearly on the facts extant it is in the public interest to simply maintain the status quo as it existed for literally years. Therefore, for the foregoing reasons and authorities cited in support thereof, it is respectfully requested that this Court maintain the long status quo and enter

a Preliminary Injunction as requested.

Respectfully submitted,

Dated: 8/28/20


R. S. GASIOROWSKI

EXHIBIT 3

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August 4, 2020

**Paul M. Kanitra, Mayor
Borough of Point Pleasant Beach
416 New Jersey Avenue
Point Pleasant Beach, NJ 08742**

**Tom Migut, Council President
Borough of Point Pleasant Beach
416 New Jersey Avenue
Point Pleasant Beach, NJ 08742**

**Bob Santanello, Councilperson
Borough of Point Pleasant Beach
416 New Jersey Avenue
Point Pleasant Beach, NJ 08742**

**Andy Cortes, Councilperson
Borough of Point Pleasant Beach
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**Arlene Testa, Councilperson
Borough of Point Pleasant Beach
416 New Jersey Avenue
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**Douglas Vitale, Councilperson
Borough of Point Pleasant Beach
416 New Jersey Avenue
Point Pleasant Beach, NJ 08742**

**Caryn Byrnes, Councilperson
Borough of Point Pleasant Beach
416 New Jersey Avenue
Point Pleasant Beach, NJ 08742**

**Eileen A. Farrell, Clerk
Borough of Point Pleasant Beach
416 New Jersey Avenue
Point Pleasant Beach, NJ 08742**

**Re: Proposed Ordinance #2020-12 denominated: "AN
ORDINANCE OF THE BOROUGH OF POINT PLEASANT
BEACH AMENDING CHAPTER 21, BEACHES OF THE
REVISED GENERAL ORDINANCES OF THE BOROUGH OF
POINT PLEASANT BEACH."**

Dear Mayor & Council:

**Please be advised that I represent various Jenkinson's business
entities on the boardwalk in Point Pleasant Beach. The Council recently**

Introduced at first reading, proposed Ordinance 2020-12 referenced above. The new proposed Ordinance, if enacted would supersede and replace the prior Ordinance governing and regulating the beachfront. Contemporaneous to this the Mayor has announced that he "...plans to hire 30 more seasonal police officers to patrol the beach and boardwalk." See "Point Pleasant Beach: Mayor says disrespect, not race, why cops broke up beach party", by Keith Schubert in *Asbury Park Press*, June 10, 2020. Moreover, the Mayor is specifically quoted explaining the proposed Ordinance in a public text in part as follows: "... And finally we taken measures to ensure beach operators have some skin in the game when it comes to restricting public drug and alcohol usage."

Proposed Ordinance #202012 contains certain changes specifically relevant and prejudicial to my client. Such changes are *ultra vires* and harm my client to a degree where he is entitled to seek a remedy at both equity and law to enjoin same. Jenkinson's will also be seeking damages. More specifically I am referring to what would, if enacted, be an entirely new section, §21-1.2B which would henceforth provide as follows:

B. Contraband

1. No one who operates a beach and charges a fee shall allow any employee under the age of 18 to inspect patrons or their possessions for alcohol and/or illegal or controlled substances.

2. If an individual who has paid a fee to access a beach is found in possession of alcohol or controlled substances while on a beach, the beach operator shall be investigated for, and if warranted charged, with a violation of *N.J.S.A. 2C:33-12*. Upon a beach operators' conviction for violating *N.J.S.A. 2C:33-12* the Borough may seek any and all penalties provided by *N.J.S.A. 2C:33-12.1*.

3. Oceanfront bathing is permitted only when lifeguards are on duty regardless of operation hours. No person shall enter the bay or ocean when lifeguards are not on duty, except with a surfboard, paddle board or the like. Any such entry when lifeguards are not on duty is at the bather's own risk.

Jenkinson's "... *operates a beach and charges a fee...*", bringing Jenkinson's clearly within the scope of proposed new §21-1.2B. Jenkinson's owns the great majority of the beach along the boardwalk. It is quite evident that this section was tailor written to target my client.

As has been the case for years, employees who check beach badges or collect daily admission fees from those without beach badges have often and traditionally been local high school students under the age of 17. Moreover, generally the only "checking" for alcohol or other contraband at the place where patrons gain access to the beach has been a reminder to patrons that alcohol and "contraband" are prohibited. Coolers are opened and if detected the alcohol must either be disposed of in the trash or the person takes it back to their vehicle. All individuals checking, are equipped with two-way radios. If a problem arises the "badge checker" calls "Security". The

"Security" is responsible for dealing with "problems," not the "badge checks". If there is a problem, Security contacts a patrolman on the boardwalk. If the individual fails to comply, they are denied admission. Once patrons are on the beach, there is no further checking or "...*inspect[ing] patrons or their possessions for alcohol and/or illegal or controlled substances...*" by Jenkinson's employees ((whether younger or older than 18 years old). If someone on the beach has alcohol or other contraband and it is seen by or reported to Jenkinson's staff, that information is immediately reported to Security. They confront the individual and contact the police if needed. Further, there is no smoking on the boardwalk and is limited o a certain restricted area on the beach.

This new section, if approved would require and impose an affirmative obligation on private beach operators such as Jenkinson's to hire only persons only over 18 years of age to check for beach badges and to take some additional affirmative measures to try to ensure that alcoholic beverages and other contraband are not brought onto the beach. While this section would appear by Municipal Ordinance to empower and require such persons over 18 to literally search beach patrons, such would clearly violate the fourth amendment to the United States Constitution and Article 1 paragraph 7 of the New Jersey State Constitution (1947) which prohibits unreasonable searches and seizures and prohibits any and all searches

without a warrant with only a few judicially recognized exceptions not applicable to the matter being discussed.

Next, §21-1.2B (2) seeks and threatens to impose and extend existing criminal liability upon beach operators – such as Jenkinson’s – for wrongful criminal conduct of third-party beach patrons in a way neither contemplated nor permitted by the statutes relied upon. The proposed change provides in relevant part that: “If an individual who has paid a fee to access a beach is found in possession of alcohol or controlled substances while on a beach, **the beach operator shall be investigated for, and if warranted charged, with a violation of N.J.S.A. 2C:33-12. ...**”

A person is guilty of maintaining a nuisance when:

- a. By conduct either unlawful in itself or unreasonable under all the circumstances, he **knowingly** or **recklessly** creates or maintains a condition which endangers the safety or health of a considerable number of persons;
- b. He **knowingly** conducts or maintains any premises, place or resort where persons gather for purposes of engaging in unlawful conduct; or
- c. He knowingly conducts or maintains any premises, place or resort as a house of prostitution or as a place where obscene material, as defined in *N.J.S.A. 2C:34-2* and *N.J.S.A. 2C:34-3*, is sold, photographed, manufactured, exhibited or otherwise prepared or shown, in violation of *N.J.S.A. 2C:34-2*, *N.J.S.A. 2C:34-3*, and *N.J.S.A. 2C:34-4*.

A person is guilty of a disorderly person’s offense if the person is convicted under subsection a. or b. of

this section. A person is guilty of a crime of the fourth degree if the person is convicted under subsection c. of this section.

Upon conviction under this section, in addition to the sentence authorized by this code, the court may proceed as set forth in section 2C:33-12.1.

[N.J.S.A. 2C:33—12]

Only subsections (a) or (b) could apply. In this regard, a person is guilty of "maintaining a nuisance" under subsection (a) if "... *By conduct either unlawful in itself or unreasonable under all the circumstances, he **knowingly** or **recklessly creates or maintains a condition** which endangers the safety or health of a considerable number of persons."* *Id.* For there to be probable cause or to be found guilty under N.J.S.A. 2C:33-12(a) a person must have "knowingly" or "recklessly" (as those terms are specifically defined in the criminal code) "created" or "maintained" a condition which endangers others. Here, contrary to the statute you seek to rely upon, instead of seeking to punish the actual wrongdoer, **literally extend criminal liability** for the actions of another (presumably someone who has managed to sneak alcohol or other contraband onto the beach) to a third party, in this case the beach operator. Again, this is not a civil legal duty and civil liability you are seeking to create or impose. This is CRIMINAL LIABILITY you are seeking to impose. You are seeking to impose it for the actions of another. The same is true as to subsection (b) *which applies*

where a party "... ***knowingly*** conducts or maintains any premises, place or resort where persons gather for purposes of engaging in unlawful conduct." N.J.S.A. 2C:33-12(b). Here again, the conduct must be "knowingly", and a quick review of the literal specific definition in Title 2C (see Footnote 1)¹ of what action constitutes "knowing" conduct quickly confirms that this section may not be used as a vehicle to extent criminal liability of another to a third party (in this case Jenkinson's) in the circumstances you seek to. Based upon literal Criminal Code definitions it would be impossible for any fair and objective court to *properly* find probable cause and issue charges in the first instance. There is no jury in Municipal Court and it is a reality that often illegal Ordinances are enforced at the local level by a Magistrate. Determining whether an Ordinance is legal or illegal is simply not within his power. One wrongfully charged is not vindicated until appeal, well after damage is done. Moreover, the penalties upon any wrongful conviction

¹N.J.S.A. 2C:2-2 provides the following specific definitions of "Knowingly" and "Recklessly":

(2) Knowingly. A person acts knowingly with respect to the nature of his conduct or the attendant circumstances if he is aware that his conduct is of that nature, or that such circumstances exist, or he is aware of a high probability of their existence. A person acts knowingly with respect to a result of his conduct if he is aware that it is practically certain that his conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

(3) Recklessly. A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Recklessness," "with recklessness" or equivalent terms have the same meaning.

.....

enumerated in *N.J.S.A. 2C:33-12.1* are draconian, and would permit forfeiture of property or an order closing Jenkinson's beach for a full year upon conviction. Otherwise stated, as written, if a beach patron successfully secrets a can of beer onto the beach, Point Pleasant Beach could impose liability upon Jenkinson's for that patron's conduct and the town could close the beach for a full year, or otherwise try to seize the property and sell it at auction! That is the Ordinance you have proposed. Clearly, the law does not allow this. The insurance implications would be considerable – probably catastrophic. Frankly, I am not sure whether you actually understand what your proposed Ordinance will actually do if enacted.²

Based upon the statements of the Mayor and the text of proposed §21-1.2B itself, it is clear that the Ordinance was drafted to directly and unfairly target Jenkinson's specifically. The Ordinance threatens and all but directs that charges be brought against Jenkinson's without probable cause and for the actions and conduct of other third parties, contrary to law. Under the circumstances you cannot expect Jenkinson's to simply sit back quietly if this new Ordinance #2020-12 is enacted. I would ask that you reconsider and withdraw the Ordinance and obtain a formal legal opinion on the issues I have pointed out here today. Absent same, my client will have no choice but to consider filing litigation seeking declaratory and injunctive

² It is really not clear whether this Ordinance applies to the municipally owned beach.

relief and damages under various state law theories and under 42 *USC* §1983. My client's course of action will be guided by your actions.

There are other sections of the ordinance that are both discriminatory and unlawful; however, the above sections alone warrant it not being adopted. Interestingly, the proposed Ordinance is the third revision. If there is that much uncertainty, how can that Ordinance possibly be adopted in "good faith".

This summer season will almost be over by the time this Ordinance goes into effect, if adopted. My client has owned, operated and improved this facility for decades. Its operation is a "gemstone" and is a part of the fabric of this community. One would be hard-pressed to find one resident of Point Pleasant Beach who did not, at one time work at Jenkinson's or have one family member which did not. Even more difficult would be a resident who did not enjoy the boardwalk and the facilities. Young people earned money to help support their families and pay for their education. Jenkinson's is a family business dedicated to providing recreation to all families. It is a part of the "heart" of Point Pleasant Beach.

The Mayor's inflammatory comments after a large gathering of visitors is seemingly the basis for this Ordinance. He claims in public statements that these visitors turned the town into an "absolute toilet". Nevertheless,

State Police Colonel Pat Callahan says:

"Last night it was a big gathering someone said about 1,000 folks on the beach: They're really from all the reports that I received that it was just that, a large gathering.

The major complaint seemingly was that they failed to follow "social distancing guideline."

Reportedly, "No major incidents, arrests or damage was reported.

As one views Jenkinson's from the beach, on the boardwalk or from the street, it "sparkles". It has modern safe state of the art rides; a world class aquarium; countless arcade games as well as numerous food courts. There is also a restaurant where entertainment is provided and alcoholic beverages sold.

Sons, grandchildren as well as nieces and nephews of the Storino family work up to 14 hours a day to ensure the cleanliness and safety of the beach and the boardwalk. At the age of 87, Pat Storino is on the boardwalk every day observing and overseeing the business he loves, providing entertainment and happiness for thousands of families from all over New Jersey. Additionally, most Storino family members live in Point Pleasant Beach.

In addition to the Storino family, there are hundreds of employees as well as independent operators who are dependent

upon the summer season to pay their bills and provide for their families. The adverse publicity generated by this ill thought Ordinance will have a significant impact on these individuals and businesses. The Mayor's comment has already had an adverse impact.

There are many individuals who excel in their avocation, whether they be artists, lawyers or entertainers. The Storino family excels in making a family trip to Jenkinson's Boardwalk a fun-filled experience. All of us who are parents or grandparents remember that first trip either as a child or watching our children or grandchild enjoy the boardwalk.

Jenkinson's beaches are completely cleaned at least once during every 24-hour period. There are also containers for trash throughout the beach. My client has expended millions of dollars to create the beach as it is today. To allege that my client is allowing it to be trashed is ridiculous. Jenkinson's did not become the success it is today by allowing bad behavior and slovenly conditions.

This Ordinance is seemingly created as the result of a single gathering on 9 June 2020. This was a single isolated "phenomena". If adopted, this ill thought out ordinance will be

challenged by my client and perhaps by others and litigated at great expense and for no reason.

This Ordinance, as written will adversely affect one hundred years of history on the boardwalk. It is unlawful and in the hands of the wrong municipal officials – it can cause chaos.

My client has repeatedly offered to sit down to discuss this issue; however, it will not accept being deprived of the protections afforded them under existing statutes as well as the state and federal constitution.

Very truly yours,


R.S. GASTOROWSKI

RS/cb

cc: Kevin Riordan, Esq. (via email)
Edward R. McGlynn, Esq. (via email)

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R.S. GASIOROWSKI
JOHN E. HOLOBINKO

CHRISTIE A. GASIOROWSKI
CATHY S. GASIOROWSKI
ALEXIS L. GASIOROWSKI

August 27, 2020

E-File and Overnight Delivery
Clerk of Ocean County
Ocean County Superior Court
118 Washington Street
Toms River, New Jersey 08754

**Re: Jenkinson's Pavilion, et als. v. Borough of
Point Pleasant Beach, et als.**

Dear Sir/Madam:

This office represents Plaintiffs, Jenkinson's Pavilion, Anthony Storino, Frank Storino, and Pasquale Storino, in connection with the above captioned matter: Enclosed please find an original and one copy of the following documents in support of Plaintiffs' Order to Show Cause:

1. Order to Show Cause.
2. Memorandum of Law
3. Verified Complaint with Exhibits
4. Certification of R.S. Gasiorowski with Exhibits

Kindly file same and return a filed copy in the enclosed self-addressed stamped envelope. Please charge our Collateral Account #141964 for any filing fees.

PAGE 2
APRIL 16, 2019
CLERK OF OCEAN COUNTY

Additionally, kindly contact my office and advise of the Judge that will be hearing this matter and what date and time it will be heard.

Respectfully submitted,

R. S. CASIOROWSKI

RSG:jai

Encls.

cc: Honorable Marlene Lynch Ford, A.J.S.C. via efile and overnight delivery
Kevin Riordan, Esq. via efile and overnight delivery.
Ed McGlynn, Esq. via efile and overnight delivery

EXHIBIT 1

1

BOROUGH COUNCIL
BOROUGH OF POINT PLEASANT BEACH - COUNTY OF OCEAN
STATE OF NEW JERSEY

TRANSCRIPT OF PROCEEDINGS

Point Pleasant Beach Municipal Building
416 New Jersey Avenue
Point Pleasant Beach, New Jersey 08742

JULY 21, 2020
7:30 P.M.

COUNCIL MEMBERS PRESENT:

PAUL M. KANITRA, Mayor
CARYN BYRNES
ANDY CORTES
THOMAS MIGUT, Council President
ROBERT SANTANELLO
ARLENE TESTA
DOUGLAS VITALE

ALSO PRESENT:

Eileen Farrell, Municipal Clerk
Christine Riehl, Borough Administrator
Joseph Michigan, Police Chief

COLE TRANSCRIPTION, L.L.C.
Certified Court Transcribers
P.O. BOX 34
WHITING, NEW JERSEY 08759
848-227-5001

APPEARANCES:

KEVIN B. RIORDAN, LLC
BY: KEVIN RIORDAN, ESQ.
20 Hadley Avenue
Toms River, New Jersey 08753
Attorney for the Borough

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4

1 (Whereupon, a virtual meeting takes
2 place and is being recorded. Due to feedback and
3 interference in audio, various parts of the recording
4 are indiscernible.)

5 MS. FARRELL: "Adequate notice of the
6 time and place of this meeting was given under the
7 provisions of the Open Public Meetings Act and was
8 posted and sent to the officially designated newspapers
9 in compliance with the law."

10 Mayor Kanitra.

11 MAYOR KANITRA: Here.

12 MS. FARRELL: Councilman Vitale.

13 COUNCILMAN VITALE: Here.

14 MS. FARRELL: Councilwoman Testa.

15 COUNCILWOMAN TESTA: Here.

16 MS. FARRELL: Councilwoman Byrnes.

17 COUNCILWOMAN BYRNES: Here.

18 MS. FARRELL: Councilman Cortes.

19 COUNCILMAN CORTES: Here.

20 MS. FARRELL: Councilman Santanello.

21 COUNCILMAN SANTANELLO: Here.

22 MS. FARRELL: Councilman Migut.

23 COUNCIL PRESIDENT MIGUT: Here.

24 MAYOR KANITRA: If everybody could
25 stand for the flag salute and remain standing for the

1 invocation.

2 (Whereupon, the Pledge of Allegiance is
3 recited, an invocation is given, and the meeting then
4 continues as follows:)

5 MAYOR KANITRA: Can I get approval of
6 the June 16th minutes and a second?

7 COUNCILWOMAN TESTA: I'll make the
8 motion.

9 MS. FARRELL: Was that Arlene?

10 COUNCILWOMAN TESTA: Yes.

11 MS. FARRELL: Is there a second?

12 COUNCILMAN VITALE: I'll second that.

13 MS. FARRELL: Doug, okay.

14 Councilman Vitale.

15 COUNCILMAN VITALE: Yes.

16 MS. FARRELL: Councilwoman Testa.

17 COUNCILWOMAN TESTA: Yes.

18 MS. FARRELL: Councilwoman Byrnes.

19 COUNCILWOMAN BYRNES: Yes.

20 MS. FARRELL: Councilman Cortes.

21 COUNCILMAN CORTES: Yes.

22 MS. FARRELL: Councilman Santanello.

23 COUNCILMAN SANTANELLO: Yes.

24 MS. FARRELL: Councilman Migut.

25 COUNCIL PRESIDENT MIGUT: Yes.

D. Vitale

6

1 MAYOR KANITRA: We're going to move
2 right into committee reports.

3 Councilman Vitale.

4 COUNCILMAN VITALE: Thank you, Mayor.

5 I'm going to start off tonight with the
6 Rec. Committee.

7 As some of you may be aware, we had to
8 abruptly cancel the Rec. Summer Camp for a week last
9 week. This was due to a counselor lying on a health
10 questionnaire about being exposed to anyone with COVID
11 and about being tested for COVID. This counselor
12 ultimately tested positive for COVID after being around
13 the campers and staffers for a day. Subsequently, the
14 counselor was then tested as negative, but we couldn't
15 take any chances.

16 The Township Administrator along with
17 the Rec. Director and myself made the difficult
18 decision yesterday to shut the camp down permanently.

19 I want to thank Michele Mosca, Allison
20 Pastor, Ryan Simonovitch and all the counselors who
21 spent months preparing for summer camp.

22 The Mayor and I visited with camp staff
23 during counsel training week, and we were blown away by
24 the programs that were put in place for this year's
25 camp. I definitely look forward to camp returning next

D. Vitale

7

1 year.

2 On a brighter note, the Yoga on the
3 Beach and Beach Yoga Programs are currently running and
4 are well attended.

5 The Rec. Committee has been in touch
6 with the Manasquan Rec. Committee to begin planning for
7 the tug-of-war. As of now, the event is up in the air
8 depending on factors related to the pandemic.

9 The Rec. Committee will also start
10 planning for the bonfire in the next two weeks. The
11 goal for this year's bonfire is to limit the attendance
12 to Point Beach residents and taxpayers. More
13 information to come on that.

14 Moving on to the Police Committee.
15 I'll read the Chief's report.

16 "Since the last Council Meeting, the
17 police department has engaged in the following
18 activities: 73 arrests for numerous criminal offenses;
19 605 borough ordinances were issued for various quality-
20 of-life offenses. This marks a 228 percent increase in
21 borough ordinance violations from the same weeks in
22 2019 and a 61 percent increase for criminal arrests."

23 The Chief has this to say.

24 "The summer of 2020 has been one of the
25 busiest summers in the history of the Borough of Point

D. Vitale

8

1 Pleasant Beach. This is proven by the high number of
2 arrests and summonses that the police department has
3 issued this year. There has been a large amount of
4 borough ordinances and criminal arrests for disorderly
5 behavior where individuals are openly drinking alcohol
6 in public and smoking marijuana.

7 "I want to take this opportunity to
8 commend all my staff for doing an outstanding job this
9 summer season. I know it has not been easy, and I'm
10 very proud of all of them for working under these
11 stressful times.

12 "In my 25 years of experience, I have
13 never seen the level of disrespect towards officers and
14 residents of this town as it is today. It is truly
15 appalling. These officers are being met with video
16 cameras filming their every move, people yelling
17 obscenities on virtually every call we are handling and
18 the constant screaming of being called racists and that
19 we are targeting people for the color of the skin
20 rather than for criminal behavior. This narrative is
21 garbage and I will not stand for anyone spreading false
22 rumors about the character and integrity of this police
23 department and the officers who work here. We will not
24 be deterred by these actions and have employed several
25 tactics to assist this department in identifying

D. Vitale

9

1 problem areas and addressing issues. Some are new
2 video cameras, extra beach patrols, additional bike
3 officers and foot patrols working on Saturday, Sunday
4 and Mondays, our most busiest days of the week. With
5 the support of the (indiscernible), we've also hired
6 additional full-time officers and (indiscernible) to
7 address retirement of several senior personnel."

8 (Whereupon, there is a lot of
9 background noise during Councilman Vitale's Committee
10 Report, making parts of his report indiscernible.)

11 (Whereupon, the meeting then continues
12 as follows:)

13 COUNCILMAN VITALE: "We have also
14 called upon the Ocean County Prosecutor's Office and
15 the Ocean County Sheriff's Department to assist with
16 manpower and other logistical support on the weekends.
17 I am fortunate to have the full support of Mayor and
18 Council to combat the problems that we are facing
19 today. In a world where it is common to say defund the
20 police, we have brave leaders to stand up and defend
21 the police. It has not gone unnoticed and we
22 appreciate your support.

23 "We also appreciate the support of the
24 residents and businesses of this town. I've received
25 several phone calls, letters and emails stating that

D. Vitale

10

1 they support our department and praising the actions of
2 our officers. As they say we are all in this together,
3 and I pledge to continue to employ (indiscernible) on
4 quality-of-life issues here in town."

5 MAYOR KANITRA: There's a lot of
6 background noise. Some people are not muted. Can you
7 please mute everybody.

8 COUNCILMAN VITALE: I think that's
9 everybody.

10 "As always, I encourage residents and
11 businesses to contact the police department to report
12 unlawful activity. It is critical that the police
13 department is contacted immediately so that we can
14 address these issues while they are unfolding. It is
15 important that we work together to make our community a
16 great place to live and visit. We are working very
17 hard every day on building a positive police-community
18 relationship. And while we recognize that there's
19 still work to be done, we feel that great progress is
20 being made.

21 "I personally want to thank all of you
22 for standing with us during this difficult time in law
23 enforcement. We are lucky to serve in such a
24 supportive community."

25 I have one last thing on the Police

D. Vitale

11

1 Committee. I just want to reiterate something that I
2 say almost every Council Meeting. There are posts on
3 several community Facebook pages about criminal and
4 suspicious activity, littering, drinking, all quality-
5 of-life violations.

6 First off, the police need to be
7 notified before posting on social media. After that,
8 please post on the Neighborhood Partnership Initiative
9 Page. That page was set up with the police department.
10 Everything that gets sent to that page gets shared with
11 the police department. I initially get a notification
12 when a post comes into that page. And in doing so, I
13 can act on it and forward it immediately. Sometimes it
14 takes hours for someone who posts on other pages and
15 then forward it to the police department.

16 So, again, I urge all residents if --
17 if you want to post something on social media, use the
18 Neighborhood Partnership Initiative page so that we can
19 forward it to the police department and they will see
20 it.

21 FEMALE AUDIENCE MEMBER: (Indiscernible)

22 MAYOR KANITRA: Whoever just said --
23 there's dog's, there's a t.v. --

24 COUNCILMAN VITALE: All right.

25 There's a sinkhole on New Jersey and

D. Vitale

12

1 St. Louis Avenue that was repaired. (Indiscernible) is
2 using outdoor seating (indiscernible). The first
3 department has (indiscernible) the water barriers and
4 (indiscernible) is responsible for the other end.
5 There was a broken water valve on 35 South and New
6 Jersey which was repaired the same day.

7 We are looking to get a right-turn-only
8 arrow at the intersection of Arnold and River.
9 (Indiscernible) Painting will do this for \$250 and use
10 a DOT compliant paint. This was researched by not only
11 the Borough Administrator but DPW and our engineering
12 firm.

13 I would like to move forward tonight
14 and add this to the agenda. So \$250 for the
15 (indiscernible) Painting to -- to paint a right-turn-
16 only arrow on Arnold and River.

17 MS. RIEHL: Doug --

18 COUNCILMAN VITALE: Yes.

19 MS. RIEHL: Doug, it's Arnold and Bay.

20 COUNCILMAN VITALE: Oh, Arnold and Bay.

21 I'm sorry.

22 MS. RIEHL: Yes.

23 COUNCILMAN CORTES: Arnold and Bay? I
24 think it's Arnold and River.

25 MAYOR KANITRA: It is River. It is

D. Vitale

13

1 River.

2 COUNCILMAN CORTES: Arnold and River
3 has two signs that say "No Left Turn." And, you know,
4 it's amazing. I asked a couple of years ago for an
5 arrow there.

6 MAYOR KANITRA: It is Arnold and River.
7 I was called by a couple of business owners. I went
8 down there. Literally, while I was there, I watched
9 about four cars make the left that they shouldn't have
10 made and -- and it almost caused a couple of accidents.
11 So that's correct. I'm sorry about that.

12 COUNCILMAN VITALE: At the intersection
13 of Central and St. Louis, there's a huge tree reducing
14 the visibility of the stop sign there. Code
15 enforcement and shade tree looked at it and the...

16 COUNCILMAN SANTANELLO: We lost you,
17 Doug.

18 MAYOR KANITRA: Is that my internet or
19 Councilman Vitale?

20 COUNCILMAN SANTANELLO: We lost Doug.

21 COUNCILMAN CORTES: We lost Doug. He's
22 frozen.

23 MAYOR KANITRA: Okay. Until he comes
24 back on, we'll temporarily move on to -- to
25 Councilwoman Testa.

D. Vitale

14

1 Councilwoman, can you start -- you know
2 what? I know you're -- I know you're going to have a
3 pretty long report. Let's give him -- let's give him
4 just a minute to try and -- and get it back. I think
5 he just dropped off.

6 COUNCILMAN SANTANELLO: Yeah, he
7 definitely dropped off. It says the Zoom meeting is
8 still up there.

9 MS. RIEHL: Right.

10 COUNCILMAN CORTES: He's gone. His
11 picture is gone.

12 MAYOR KANITRA: He's getting back on.

13 MR. CASTIN: I couldn't get on. What
14 the hell is the matter here?

15 MAYOR KANITRA: Vince, you want to run
16 the meeting? What's your -- what's your committee
17 report, Vince?

18 MR. CASTIN: Okay. What committee am I
19 on?

20 MAYOR KANITRA: Hold on. Let's see if
21 he can -- you know what?

22 Councilwoman Testa, clearly, Councilman
23 Vitale is having internet problems.

24 COUNCILWOMAN TESTA: Sure.

25 MAYOR KANITRA: Maybe you can go with

A. Testa

15

1 your report.

2 COUNCILWOMAN TESTA: Okay. Can you
3 hear me? Because I feel like it's low.

4 COUNCILMAN CORTES: Yeah.

5 COUNCILWOMAN TESTA: Can you hear me
6 okay? Okay. Good. All right. Awesome.

7 Thank you, Mayor, and thank you to the
8 residents of Point Pleasant Beach for being on
9 tonight's Council Meeting. I appreciate you being here
10 and being participants.

11 I'd like to start with my committee
12 reports.

13 The first is the Arts Committee. We
14 are going to have some new murals going around up
15 during downtown by Stella Luna and also by Jim's
16 Gallery which is right next to Stella Luna. So you're
17 going to start seeing those murals go up. We're really
18 excited about that.

19 There also was some discussion about a
20 new idea for downtown, an art gallery, that we would
21 feature artists into the windows of the empty store
22 fronts. It would help beautify the downtown and it
23 would help artists display their artwork. This would
24 help the building owners by adding a store for sale/
25 rent sign with the floor plan into the window art.

A. Testa

16

1 There's still -- we're working on a list of businesses
2 that would be interested in this, obviously. And I
3 think it would -- you know, I think it's a -- a great
4 idea. I think it's -- I'm totally onboard with this.
5 And I'd just like to thank the Arts Committee and the
6 team that they have for all their hard work. So we'll
7 see what happens. I'll keep you posted on that.

8 With the Beautification Committee, I
9 spoke with Mary Snyder. They are working very hard
10 with the weeding and the watering of all the different
11 plants and areas this month, especially with the
12 extreme heat. So hats off to them because that is a
13 huge dedication to go out there and water everything.

14 And just, you know, like, for myself
15 walking around and riding my bike, it does look great.
16 I mean, all the teams are doing a fantastic job. So
17 thank you again to all the volunteers and thank you to
18 Mary and her team for doing a great job.

19 I don't know if there's anything that
20 you want to add, Andy, to the beautification that --

21 COUNCILMAN CORTES: No.

22 COUNCILWOMAN TESTA: No?

23 COUNCILMAN CORTES: No, you covered it.

24 COUNCILWOMAN TESTA: Okay. Very good.

25 I know that we had a meeting Wednesday

A. Testa

17

1 for the code enforcement. I had to go to work early.
2 I really didn't hear back. Did you guys have that
3 meeting or -- or was it rescheduled, Andy?

4 COUNCILMAN CORTES: Bob and I called in
5 and we waited ten minutes and nobody else called in.
6 The crux was that you canceled so it was changed. I
7 did --

8 COUNCILWOMAN TESTA: Okay. Well, I
9 didn't want it to be canceled.

10 COUNCILMAN CORTES: Okay.

11 COUNCILWOMAN TESTA: I just wanted to
12 know, Christine Riehl, do you know if code enforcement
13 was put into the Government Pilot Program? I did ask
14 that question but I did not get a response back yet.
15 Do you know if that was implemented?

16 MS. RIEHL: It is in the works, yes.

17 COUNCILWOMAN TESTA: Okay. So it's not
18 in yet but we're working on it. Okay.

19 MS. RIEHL: Correct.

20 COUNCILWOMAN TESTA: Awesome. Great
21 job. Thank you.

22 Okay. I'd like to give a big shout out
23 for this past Saturday for the Little Silver cleanup.
24 How it came about was a resident, Margie McDonald, she
25 actually lives on the Little Silver Lake on Trenton

A. Testa

18

1 Avenue, and she had reached out to me and she had asked
2 if we could do a cleanup. The last time it was done, I
3 believe, was two years ago and Council Members and the
4 dive team had all participated, and she was very, very
5 happy with that. And she wanted to know if we could do
6 that again. I reached out to the Mayor and Christine
7 Riehl, and they said absolutely.

8 And a huge thank you to Kristen
9 O'Rourke because I couldn't have done it without her
10 help. She organized everything with me. She made the
11 flier. She sent out emails to all the other committees
12 and it was very successful.

13 I'd like to say thank you to Chet and
14 his amazing dive team. They're amazing. I don't know
15 -- is that -- is that dive team a specific team or is
16 that, like, part of the first aid squad?

17 MALE VOICE: (Indiscernible)

18 COUNCILWOMAN TESTA: Okay. And then
19 the first aid squad came out and they had water. They
20 had air-conditioning in their trucks because it was
21 almost 95 degrees that day. So they went to make sure
22 all the volunteers were safe from heat exhaustion. So
23 thank you to them.

24 Thank you to (indiscernible) for being
25 there. That was awesome. And to the students that

A. Testa

19

1 showed up. I know a lot of people didn't know about
2 it, and I apologize. I'll do better communication and
3 get it out there. But we would love to have you. It
4 was a huge success. And I don't know if you can see my
5 picture. But that was -- right there. That's part of
6 the dive team and some of the volunteers, and those
7 were all the bags that we collected in trash. So thank
8 you for that. And I'd like to do that every year.
9 You know, just kind of keep it as a tradition, like,
10 not wait two years.

11 And the residents on the lake were so
12 thankful. They really appreciated it. They say a huge
13 thank you to everyone.

14 I'd like to keep you updated on what's
15 going on with the traffic and signage. Again, a lot of
16 residents reach out to me and talk about their concerns
17 with streets, and I do write down all your suggestions,
18 and I send them to the appropriate people, and I follow
19 up with discussion to get feedback.

20 If you can bear with me for one moment,
21 I will let you know what was said.

22 So I spoke with Kristen O'Rourke, and I
23 asked her to follow up with me. She said that -- and
24 I'm just going to read this out. Hold on one second.
25 Okay. Okay.

A. Testa

20

1 "Christine Riehl and I had a phone
2 meeting with the NJ DOT at the end of June to discuss a
3 number of state road issues relating to outstanding
4 requests and new requests from residents. The new
5 requests were discussed with the DOT and are outlined
6 throughout.

7 "One, direction arrows painted on 35
8 North and South to reduce the numbers of cars turning
9 on the wrong way onto the highway, focusing around the
10 downtown area. DOT said this is definitely possible."

11 So that's good.

12 "They arrange painters to come out and
13 paint the arrows on the pavement.

14 "Two, left-turn signal at Arnold and 35
15 South. DOT said this will require roughly a six-month
16 traffic study which requires rewiring and new
17 signaling. That is impossible in this calendar year
18 due to the furloughs and the pandemic" which is
19 understandable. "This will be considered in 2021, as
20 the Borough would need to provide 25 percent investment
21 in the project as part of the mandatory cost share
22 agreement.

23 "In the meantime we have requested to
24 have the entire intersection be considered for painting
25 "Don't Block the Box" to help clear traffic. Crosswalk

A. Testa

21

1 intersection on Route 35 and E Street, east of the
2 train tracks, DOT took our suggestion, and we worked
3 with the NJT to determine that it is their
4 right-of-way."

5 So these were some of the suggestions
6 by a resident. We're definitely, you know, doing the
7 best that we can to get these things addressed. So
8 thank you and -- and keep bringing them into us. Okay?
9 I love it.

10 I'd also like to say thank you to Maser
11 Engineering Firm and especially to John Neely and
12 Kelsey Krammer. They are just outstanding. They have
13 helped me so much trying to get this grant process to
14 get us money to get these roads fixed. They did a very
15 detailed plan. They submitted it. I'm waiting to hear
16 back. We still haven't heard whether we got this
17 grant.

18 I have to say on a personal note that
19 any time I reach out to them they're always available.
20 They always talk to me. They're kind and considerate
21 and they work very, very hard. And we're very
22 fortunate to have them. So I can only speak highly of
23 the Maser Engineering Firm. So thank you to them.

24 So that's it for my committee reports,
25 but if you could just indulge me for a couple of more

A. Testa

22

1 minutes, I would appreciate it.

2 There are two things on the agenda
3 tonight that I'm sure we're going to have a long
4 discussion with, and everyone is going to have a
5 different opinion, and that's okay because we are all
6 adults and we're all allowed to have different
7 opinions, but we should always remain respectful.

8 So the first two -- the first -- the
9 first ordinance is the beach ordinance and the second
10 one is the tree ordinance.

11 So I'm going to talk about the beach
12 ordinance first, and I'd like to discuss my point of
13 view, my three points and then I'll go on to the tree
14 ordinance.

15 A MALE VOICE: (Indiscernible)

16 COUNCILWOMAN TESTA: I'm not allowed to
17 talk about it?

18 A MALE VOICE: No.

19 COUNCILWOMAN TESTA: Mayor, when am I
20 allowed to give an opinion about it?

21 MAYOR KANITRA: She's allowed to talk
22 about whatever she wants in her committee report.

23 COUNCILWOMAN TESTA: I wanted to
24 respond to the beach ordinance. Am I allowed to say
25 anything?

A. Testa

23

1 MAYOR KANITRA: Of course, you can.

2 COUNCILWOMAN TESTA: Oh, okay. Because
3 someone said I'm not allowed to. Am I allowed to speak
4 about it?

5 A MALE VOICE: I don't think so because
6 (indiscernible).

7 MAYOR KANITRA: Doug, can you mute
8 whoever is speaking (indiscernible -- feedback). I
9 mean we all do.

10 COUNCILWOMAN TESTA: We all did in the
11 past. I mean, I don't know why all of a sudden I can't
12 when other people in the past have major discussions
13 about things.

14 COUNCILMAN CORTES: Kevin, this is
15 yours.

16 MR. RIORDAN: I'm here.

17 COUNCILMAN CORTES: This is yours.

18 Would we, you know, give our opinions on ordinances
19 during our committee report or would we when it comes
20 up to a vote? Because it's on for first reading/
21 introduction which is not --

22 COUNCILWOMAN TESTA: Okay. Well,
23 whenever -- that's fine.

24 COUNCILMAN CORTES: Arlene, I'm just
25 asking the attorney.

A. Testa

24

1 MAYOR KANITRA: I -- I will say it does
2 seem like a double standard and a little bit of
3 mansplaining here to the Councilwoman. Every other
4 meeting you guys always talk about every single thing
5 on there, and she starts to talk and it seems like
6 you're trying to --

7 COUNCILMAN CORTES: I'm not trying --
8 Paul, I actually --

9 (Indiscernible -- simultaneous
10 conversations.)

11 COUNCILMAN CORTES: -- a legal aspect.

12 COUNCILWOMAN TESTA: Well, I don't want
13 to do anything illegal. When I'm allowed to speak
14 about the ordinance, let me know.

15 MR. RIORDAN: Let me know when you want
16 to hear from the lawyer.

17 MAYOR KANITRA: No one else is
18 recognized to speak except for the Borough Attorney
19 right now.

20 Kevin.

21 MR. RIORDAN: Thank you, Mr. Mayor.

22 What you're talking about is the
23 procedure for your meeting. The procedure for your
24 meeting is set forth in your meeting procedure. The
25 committee reports allow a very wide-ranging group of

A. Testa

25

1 topics including ordinances. And I know that -- that
2 Councilman Santanello and Councilman Cortes are
3 thinking about the procedure by which ordinances have
4 to be passed, and they are absolutely right. It has to
5 be introduced on first reading, and the public then has
6 an opportunity to comment at a second meeting which
7 would be a meeting after this one. Of course, we have
8 always allowed comment on ordinances on first reading
9 during the, I believe it is, first public comment. I
10 could stand to be -- stand to be corrected. Somebody's
11 got the agenda in front of them and can look at it.

12 COUNCILMAN CORTES: Yes.

13 MR. RIORDAN: But there's nothing
14 illegal about the Councilwoman discussing the
15 ordinances at this phase. It does not in any way
16 affect the legal -- legality of the enactment.

17 COUNCILMAN CORTES: Okay.

18 MR. RIORDAN: Does that answer the
19 question?

20 COUNCILMAN CORTES: Yeah. Thank you,
21 Mr. Riordan.

22 MR. RIORDAN: I try, guys.

23 COUNCILMAN SANTANELLO: Paul, would you
24 recognize me for one moment, Paul?

25 MAYOR KANITRA: Sure.

A. Testa

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1 COUNCILMAN SANTANELLO: I think you
2 misunderstood what I was saying before. I said that
3 she had every right -- every right to talk about the
4 ordinance. I was not objecting to it. That was
5 somebody else, not me. I just --

6 MAYOR KANITRA: And that's understood,
7 Bob. There was someone jumping in and --

8 COUNCILMAN SANTANELLO: Okay.

9 MAYOR KANITRA: So thank you,
10 everybody.

11 COUNCILWOMAN TESTA: Thank you,
12 everybody.

13 So -- so may I continue, Mayor?

14 MAYOR KANITRA: Please.

15 COUNCILWOMAN TESTA: Okay. So just
16 bear with me, everyone.

17 Okay. So my first point is that with
18 this ordinance, when it first initially started, there
19 was a lot of concern about the size of the coolers
20 going from the large size to 12-inch. And I heard
21 people come up to me and I just heard different people
22 saying, like, wow, that's too small; there's a lot of
23 things that, you know, we're not going to be able to
24 fit in; I can't fit that stuff.

25 So for your entertainment, I have some

A. Testa

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1 props. I actually have two coolers. They're actually
2 11 inches, where the new ordinance is 13 inches. I
3 have two of these.

4 MAYOR KANITRA: Okay.

5 COUNCILWOMAN TESTA: I want to show you
6 what I can fit in them just for entertainment purposes.
7 Okay. This is the (indiscernible). Look, a whole box
8 of granola. On the side we have more granola. I open
9 this up, I have eight bottles of water.

10 MAYOR KANITRA: Eight?

11 COUNCILWOMAN TESTA: Eight.

12 MAYOR KANITRA: Wow.

13 COUNCILWOMAN TESTA: And I have a soda.

14 This is just one. Moving on to the second cooler.

15 Here we go. A whole bag of chips. (Indiscernible) can
16 go in the beach bag because you can put as many chips
17 as you want to, but I thought, well, we'll put one in
18 there.

19 MAYOR KANITRA: Great.

20 COUNCILWOMAN TESTA: Let's see what
21 else we have. Granola, granola snack bars. And let's
22 see what we have in here. Oh, salami, turkey, peanut
23 butter, a whole loaf of bread and eight cans of soda.
24 What else? I have that, that. And I have one more
25 thing. Oh, I have a whole bag of carrots.

A. Testa

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1 I think you kind of get the point that
2 I'm making. The ordinance says they don't want lunch
3 coolers. They didn't say that you can't have every
4 parent carry one of these and a child. So think about
5 it. If each one brings one of these up. Mom, dad and
6 a kid, and they're on the beach for five hours, I truly
7 think there is enough in here to sustain a family for
8 five hours with water, nourishment, food, whatever they
9 need.

10 Now, when I go on the beach, I've
11 noticed -- not on Jenkinsons but on other beaches where
12 this ordinance isn't (indiscernible), I've seen large
13 coolers. I've walked by. I've seen a case of beer in
14 there. I see people drinking all the time. The reason
15 why the ordinance with the coolers is because you can't
16 sneak anything, really, in here and hide. It's pretty
17 ob -- obvious.

18 So that's my first point.

19 The other point is on the age. We
20 should not have 14 and 15-year-olds checking coolers.
21 It should be 18-year-olds checking coolers. Eighteen
22 is the age to work in a liquor store. If you're in a
23 restaurant, 14-year-olds can't be serving -- bringing
24 over liquor. So why would we allow children at 14 or
25 15 checking coolers for alcohol? That's why the age is

A. Testa

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1 18. That's just common sense. It's for safety for
2 them.

3 Okay. Another point is, my son has --
4 this is his fourth year working at the -- at the beach.
5 And I'm going to just say that when this ord -- when
6 this was put into effect, it changed the size of the
7 cooler. And a weekend or two went by. I actually
8 asked him. I said, listen, I said, how's the beach
9 been in the morning? Because he always works seven to
10 twelve in the morning. He goes, "Mom, it is so clean
11 up there." He goes, "I can't tell you." He goes,
12 "Prior to this, I can't tell you the amount of garbage
13 that I was picking up, and I don't even want to tell
14 you things I had to pick up." Now that this has gone
15 into effect, he goes, "Mom, it's unbelievable."

16 so I'm taking it from my son who works
17 up there five days a week and busts his butt. Okay?
18 So do you want to hear from the source? Hear from the
19 kids that actually work up there. So he actually
20 thinks it's a good idea because it reduces the level of
21 litter. So that's a good thing for the town.

22 Any another point with this -- and I'm
23 going to tell you a little story. Just humor me.

24 Basketball, okay, last year, varsity
25 team, basketball team goes away for their away games.

A. Testa

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1 And they're given the privilege to have subs when they
2 get out of a game because it's an hour away. The
3 second away game, one child decides that after they get
4 done eating their sub they're just going to throw their
5 food everywhere and not clean up. They get off the
6 bus. They leave their garbage. The coach asked him to
7 please go back in and clean up. He says, no, I'm not
8 going to. So other children go in and clean up. Well,
9 the next away game, guess what happens? No more subs.
10 Guess what? Were parents upset? Absolutely. Were the
11 kids upset? Absolutely. But guess what? One person
12 decided that they weren't going to follow the rules and
13 they were going to do things their way, and that
14 privilege was taken away, and I'm okay with that
15 because there's consequences to your actions.

16 So to me if people are going to come
17 here and -- and visit our beautiful beach, then they
18 have to respect our beach, they have to respect the
19 residents, and they have to respect the ordinances.
20 And if you can't, what can I tell you? These -- this
21 is the ordinance for a reason. Okay? So that is why
22 I'm voting and I'm for this beach ordinance to give you
23 my points of view.

24 When I went walking on the trail with
25 Mayor Paul Kanitra, Councilman, at the time, and Doug

A. Testa

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1 Vitale, we spoke to, I want to say, over 800 residents,
2 easily. And their number one concern was safety, okay,
3 and -- and the cleanliness of this town and the respect
4 of this town.

5 I'm not -- when I ran, I didn't run for
6 any political gain or to get anywhere. I'm here for
7 the residents of this town. And I have to say that the
8 majority -- out of 1,000 residents, 950 people are on
9 agreement with this. So to me that's my -- my concern
10 is the residents. So that's what I have to say about
11 this beach ordinance.

12 And, lastly, with the tree ordinance.
13 I know that there are two -- two sides of this, and I
14 understand both sides, why you're for the tree
15 ordinance and why you're against it. I get both sides.
16 I truly do. But I have to say that this -- this
17 ordinance has been up now for three weeks almost since
18 our last meeting, and I have to tell you that there's
19 only one resident that reached out to me, and that was
20 John Terrazi, of why he was against this ordinance. He
21 spoke very eloquently and he brought his point of views
22 across. And I understood what he meant as a homeowner
23 and his rights. And he spoke to every Councilperson on
24 this Committee. He spoke to the Mayor. He spoke to
25 the other side as well to get everybody's perspective,

A. Testa

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1 and I commend him and I respect him for that.

2 Recently, I also received two beautiful
3 letters from people that are for the tree ordinance,
4 and they were beautifully written, and I understand
5 where they're -- where they're coming from too.

6 So what I'd like to encourage, when we
7 do have open discussion, I want to hear from the
8 residents. I want to hear why you're for the tree
9 ordinance and I want to hear why you're not for the
10 tree ordinance. I know that they made some changes on
11 the tree ordinance to come to a happy medium, and
12 that's what this is about. It's not about one side or
13 this side. It's about everybody coming together and
14 trying to find something that works.

15 And I have to tell you, John Terrazi,
16 he made a powerful statement. He goes if you're going
17 to pass something, at least 50 percent of the town has
18 to be in agreement with that. And that spoke volumes
19 to me, and that stayed with me.

20 And all I want to say is that when we
21 have the open discussion and other people talk, let's
22 just be respectful to one another. Let's -- we might
23 not agree with everybody's opinion, but we need to be
24 respectful and we need to be kind. And that's all I'm
25 asking in this meeting. That is all I'm asking.

A. Testa

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1 And I just want to say thank you to the
2 Council, thank you to the Mayor, thank you to Christine
3 Riehl and everyone on there and thank you especially to
4 our residents. You guys, really -- you know, we have
5 to be all in this together. And that's what I'm here
6 for. I've got no objective here. I'm not here for any
7 political gain. No one is paying me a lot of money.
8 I'm here for you. I work full-time like everybody
9 else. I know I'm going on and on, but I want you to
10 know that my heart is in this. And any one of you can
11 call me and talk to me about your concerns. We might
12 not agree on everything, but I will surely listen to
13 you. And that's what I'd like to say.

14 I thank you for giving me this time. I
15 normally don't talk this long, but I felt it was very,
16 very important for me to express how I feel. So thank
17 you. God bless you and I -- and just thank you for
18 this time.

19 And that's all I have to say, Mayor.
20 Thank you so much.

21 MAYOR KANITRA: Councilwoman Testa,
22 that -- that might be the committee report of the year.
23 I got four texts already about your cooler through my
24 phone right now.

25 Councilwoman Byrnes, you have to top

D. Vitale

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1 that.

2 COUNCILWOMAN BYRNES: That's a hard act
3 to follow.

4 COUNCILMAN CORTES: Is Councilman
5 Vitale finished with his report? Is he back on, Mayor?

6 MAYOR KANITRA: We'll go back to
7 Councilman Vitale to finish his report. He was halfway
8 through the police thing when the I.T. professional
9 that he is lost internet service.

10 Go ahead.

11 COUNCILMAN VITALE: Can you hear me?

12 MAYOR KANITRA: We can.

13 COUNCILMAN CORTES: Yes.

14 COUNCILMAN VITALE: All right. I just
15 had a couple more things left.

16 I talked about the streets. I talked
17 about the intersection of Central and St. Louis which
18 we --

19 COUNCILMAN SANTANELLO: We lost you on
20 that one, Doug.

21 COUNCILMAN VITALE: Okay. All right.
22 So at the intersection of Central and St. Louis,
23 there's a huge tree reducing the visibility of the stop
24 sign. Code enforcement and shade tree looked at it,
25 and the entire tree would have to come down. They

D. Vitale

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1 decided to keep the tree up and instead put a sign in
2 front of the -- the branches that are causing the
3 visibility issues to say that there's a stop sign
4 ahead. So they're hoping that that will help alert
5 drivers that a stop sign is coming up without having to
6 take down this -- this huge, beautiful tree.

7 Finally, on cybersecurity initiative, I
8 created an acceptable use social media policy for
9 Borough employees which is currently being reviewed by
10 the Borough Attorney.

11 On the cooler ban, I -- I cannot follow
12 Councilwoman Testa. That was a great speech. But I
13 wanted to say that, you know, I -- I have a lot of
14 residents talk to me and -- and text me, and a lot of
15 residents work up on the beach. And to mimic
16 Councilwoman Testa's point is that since we've started
17 to contain the size, the litter has significantly
18 decreased. So I -- you know, I am in favor of the ban
19 of the cooler size.

20 And that's all I have.

21 Sorry for the technical difficulties.

22 Thank you.

23 COUNCILWOMAN TESTA: That's okay.

24 MAYOR KANITRA: All right.

25 Councilwoman Byrnes, you're up.

C. Byrnes

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1 COUNCILWOMAN BYRNES: Good evening,
2 everybody.

3 And thank you Point Pleasant Beach
4 residents for being in attendance tonight. And thank
5 you, Mayor, my Co-Council. Thank you, Chief, the
6 Administrator Christine, and Eileen. Thank you very
7 much for all your support in the office all the time.

8 Governing during these unprecedented
9 times is no easy task. That's for sure. And is it
10 none that I take -- I take with the utmost despair.

11 Chief, thank you, especially for your
12 continued commitment, really, for these quality-of-life
13 issues along with the Mayor. And it's -- it's made a
14 big deal. It's making a big deal with our -- with our
15 residents. And, you know, so many of them, sadly, are
16 looking to leave, you know, so this really needs to be
17 addressed, you know. So I thank you.

18 I also thank you, Chief, for that --
19 for that wonderful memo that Doug just read. That was
20 well-written and well-said.

21 So on to my reports.

22 The fire report, they've been fairly
23 busy this summer mostly with some minor issues to
24 contend with. So they've had some minor issues to
25 contend with. But like everything else during these

C. Byrnes

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1 times, when they're called upon and there's
2 uncertainty, you know, it's unsettling, you know. So
3 thank you to them for what they do.

4 The membership has grown a little bit.
5 They have two new active members and two new junior
6 members that we're all very proud of. So -- so very
7 good for that.

8 On to the Environmental Commission. So
9 some Green Team news. We've shared a renting
10 discussion on various grant opportunities including
11 that -- the community -- the Clean Communities Grant
12 Program through the NJDEP, and that will be ongoing.
13 But we will certainly (indiscernible).

14 Sustainable Jersey Actions, there was
15 certainly -- the Shade Tree Commission updated the
16 Environmental Commission on the actions of the proposed
17 (indiscernible) and some of the amendments that
18 everybody spoke about. I voiced some of the concerns
19 that I have had through the -- throughout with our
20 constituents although there have not been too many.

21 MAYOR KANITRA: You're going to bring
22 up Al Verosi's comment for the Shade Tree thing when we
23 get into that, right?

24 COUNCILWOMAN BYRNES: Yes, yes.

25 So the Shade Tree Committee was

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1 submitting a proposal to the Ocean County Shade Tree
2 Commission for shade trees on Broadway. And, again,
3 they're very happy with Rob so they thank us all for
4 that. You know, that is working out real -- really
5 well. And I mean if he wasn't out there watering
6 during this, you know -- you know, what I mean, it
7 would all be a moot point. So it's all important, you
8 know?

9 For ongoing business with the
10 Environmental Commission, we've had a long discussion I
11 guess for another volunteer project involving clean-up
12 and replanting on Arnold Avenue between the property --
13 between the firehouse and the post office. For that
14 effort we'll be seeking some high schoolers. They'll
15 be -- they will be supervised by the Commission, and
16 they will be, I guess, putting a professional
17 landscaper on that one. And together we'll work and do
18 something lovely.

19 During this meeting it was also
20 discussed that there was -- the -- the recycling
21 receptacles. Many of them do not have the information
22 stickers on them. They will also be replaced by the
23 volunteers. And they work very hard out there doing a
24 lot of that.

25 Our Chair, Peter Richings, advised the

C. Byrnes

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1 Environmental Commission about a potential violation
2 that I think we all know. You know, he had
3 communication with the NJDEP, the Bureau of Coastal and
4 Land Use and Coastal Environmental Office. So thank
5 you for that.

6 Some ongoing news. I have a very -- I
7 would like to read the let -- the letter from the --
8 one of the eloquent letters that we received from the -
9 - for the Shade Tree Ordinance in support. Can I do
10 that now or --

11 MAYOR KANITRA: Sure.

12 COUNCILMAN CORTES: Does that
13 constitute public comment?

14 MAYOR KANITRA: Kevin, can she read a
15 resident's letter?

16 MR. RIORDAN: No because it's coming
17 from the Councilwoman, but it is a relatively unusual
18 procedure. It's up to you, Mr. Mayor. Ordinarily, if
19 -- if residents want to speak, they come to the Council
20 Meeting. Usually, they don't send Councilpeople
21 letters to be read so it's unusual but it's up to you.

22 COUNCILWOMAN BYRNES: Well, because
23 it's so well -- it's so eloquently stated to be in
24 support of the shade tree -- of the ordinance and which
25 I am supporting because we do need legislation to

C. Byrnes

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1 support our trees.

2 MAYOR KANITRA: Councilman, go ahead,
3 please.

4 COUNCILWOMAN BYRNES: Okay.. It's very
5 brief.

6 So he states:

7 "Dear Mayor and Council, I'm writing in
8 support of the above-ordinance as I strongly believe
9 that it's in the best interest of the Borough
10 environmentally, economically and aesthetically.
11 Further, it is neither overtaxing on government
12 structure or resources nor inconsistent with the
13 important goal of environmental protection and air
14 quality maintenance and improvement."

15 So we can all really agree with that.

16 "As a resident of this great community,
17 I strongly believe that we should be doing everything
18 in our power to ensure future generations will enjoy
19 all the resources that Point Pleasant Beach has to
20 offer. Passing this legislation is an important step
21 in that direction in terms of natural resource
22 preservation.

23 "Also, I am not often active political,
24 but I felt compelled to write you all to express my
25 views and to voice my strong support on this important

C. Byrnes

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1 ordinance. As we are all aware, trees are a precious
2 and invaluable resource. For removal and planting of
3 trees in our community, we need explicitly stated
4 legislation and (indiscernible)" -- I had to look that
5 one up, actually -- "protection" -- I've never seen
6 that word, but I like it -- "whether public or private
7 lands."

8 (Indiscernible -- feedback.)

9 "The ordinance is very resident
10 friendly and as noted requires few additional
11 government resources to be implemented."

12 So I just brought that -- that sums up
13 -- that sums up my feeling toward that -- toward the
14 argument now. I know that we've worked hard on it and
15 it's been fine-tuned, and I would like to see that one
16 pass. It makes sense. You know, I mean, who doesn't
17 really enjoy the character and -- and all the beauty of
18 a tree-lined street, you know? That's how it's -- how
19 I feel about that.

20 On Arnold Avenue -- on another little
21 news -- I -- and, Arlene, this is kind of going to
22 piggyback on yours. But I met with -- yesterday I met
23 with the -- the owner of Borden's property. So he was
24 like -- you know, I said just -- I'm not certainly
25 looking for him to expend any, you know, any money in

C. Byrnes

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1 there fixing up those windows. It's been sitting there
2 empty for a long time. But -- but these
3 (indiscernible), they're like shadow -- they're
4 recessed windows on the corner. So he's going to work
5 with me and we're going to do something on all of those
6 windows on the ground level and removal of that old
7 signage from Borden's and that kind of thing. He's
8 coming out with me to dress that up. It's so
9 beautiful.

10 And I had been working with Kim Carr
11 from the Art Department and -- and a couple of our
12 senior students to go put some ideas together, which we
13 have been. So I guess I'll be in the touch with the --

14 COUNCILWOMAN TESTA: And, Councilwoman
15 Byrnes, hats off to you, seriously. I mean, actions
16 speak louder than words. And let me tell you
17 something. You are out there and you are working it,
18 girl.

19 COUNCILWOMAN BYRNES: Thank you.

20 COUNCILWOMAN TESTA: You are definitely
21 working it.

22 COUNCILWOMAN BYRNES: Thank you.

23 COUNCILWOMAN TESTA: So hats off to
24 you. I'm so proud to be working alongside you. I
25 truly am. So thank you.

C. Byrnes/A. Cortes

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1 COUNCILWOMAN BYRNES: Now, if I could
2 just get through these -- these reports as easily as I
3 can be effective on the street. They make me a little
4 nervous. I'm sorry, everybody.

5 COUNCILWOMAN TESTA: Me too. Me too,
6 sister.

7 COUNCILWOMAN BYRNES: And so I think
8 I'll wrap it up for now because there will be a
9 discussion in a little bit.

10 COUNCILWOMAN TESTA: Oh, yeah,
11 definitely.

12 MAYOR KANITRA: Okay. Councilwoman,
13 fantastic. I think it's very clear listening to you,
14 listening to Councilwoman Testa, listening to
15 Councilman Vitale just how much you're working for this
16 town. And like Councilwoman Testa said, you know, you
17 can say a lot of words but, you know, you can't fake
18 work or you can't fake hard work. So thank you for all
19 that the three of you are -- are doing.

20 Councilman Cortes.

21 COUNCILMAN CORTES: Thank you, Mayor.

22 Well, Councilman -- Councilwoman Testa,
23 you know, very nice report. Councilwoman Byrnes, very
24 nice.

25 I'm going to start -- it seems like

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1 forever since our last meeting. The first meeting in
2 July which happens to be towards the end of July we
3 have personnel that have anniversaries this month.

4 From DPW, Terry O'Connor, 15 years and
5 Brian Patton, 6 years.

6 Again, I don't know if there's anybody
7 new out there, but I've been doing this for the eight
8 years I'm here, recognizing every month who has
9 anniversaries, our employees. I think that's very
10 important. We all sit up here and make policy, but
11 they have to go and carry it through.

12 Public property, buildings and grounds,
13 I've been the Chairman of that, probably, for five or
14 six years now. And, like the Councilwomen both said,
15 feel free to reach out to me on anything. Public
16 property, buildings and grounds kind of covers quite a
17 bit. In fact, both Councilwomen are on that Committee
18 with me as I chair that.

19 Letters were hand-delivered to all the
20 row houses between Parkway and Broadway explaining the
21 garbage and recycling collection, that it's done at the
22 backdoor. That was done a couple of weeks ago, and I
23 have seen a shift in the -- in less garbage being
24 placed out on Ocean Avenue. We're still working on it.
25 That's the first step. We are still working to get rid

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1 of bags, you know, that the seagulls will attack.

2 There were some issues that I had
3 noticed over the past weeks just in driving around
4 because I do that every day. I go look around the
5 town. For example, the flagpole at the gazebo was
6 broken. There was a water valve cover on Ocean Avenue
7 and Elizabeth Avenue broken. The sinkhole Councilman
8 Vitale mentioned on New Jersey and St. Louis. We also
9 had water bubbling up in front of a resident's house in
10 the 500 block of New Jersey. And New Jersey Transit
11 had a load of poles knocked over by the train station.

12 And they were all taken care of within
13 a couple of days. And it just goes to show you that
14 when you mention it to the right people and it gets to
15 the right department, things can get done.

16 All right. I'm going to openly
17 apologize to Councilwoman Byrnes. We were going down
18 Arnold Avenue awhile back, like, at 11:30 -- and I know
19 you couldn't make it -- with John Trout, just looking
20 at the trash there. I, at the last minute, couldn't
21 make that meeting, and we met at, like, six o'clock
22 that Friday morning. And I apologize. I inadvertently
23 did not contact you. I'm sure you would have been out
24 there with me.

25 But we walked it all out. And the bags

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1 that seem to be placed out there, Mayor, seem to
2 becoming from the upstairs apartments, which is
3 understandable. You know, people are leaving their
4 apartment. They probably don't have a place to put a
5 pail. They just put a bag. A lot of them were placed
6 near our trash receptacles.

7 Now, with that said, John and I -- I'm
8 going to put up behind me -- this is a container. This
9 could probably hold two kitchen-size garbage bags.
10 John -- John Trout from the DPW, our Superintendent, is
11 looking to acquire one -- a -- a free demo, if you
12 will, just to see it. We want to see what it looks
13 like. It can't hurt. This might be something that's
14 placed next to our containers down on Arnold Avenue
15 where bags won't be exposed. They could be placed in
16 such a way where they won't pose a trip hazard if
17 they're right next to another container. Just a
18 thought, okay, on that note so...

19 MAYOR KANITRA: It's a good idea.

20 COUNCILMAN CORTES: Just, as I said,
21 you know, you got to -- you got to look into it and get
22 that done.

23 I -- I had a question about a Maser
24 p.o. for the -- you know, just a concern. We had 11 of
25 them sent to all of us via email to approve. The Ocean

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1 Avenue Water Main Project, which we awarded to them,
2 which is fine, but in one of their line items,
3 construction administration and observation services
4 comes to \$138,000. That just seemed like a lot to me.

5 And there's an ordinance on here, a
6 multi-bond ordinance, for first reading. I would like
7 to make a motion, you know, when that -- when the time
8 comes that any capital improvement project, that we get
9 quotes from all of our qualified engineers. I know in
10 our reorg. meeting when you were sworn in, Mayor, we
11 had numerous legal people and engineers on there so I
12 know that they're all kept. I just think that would be
13 a good idea to get -- just get quotes from everybody.

14 MAYOR KANITRA: That's an interesting
15 -- that's an interesting thing to propose because in
16 the last four years of this administration since you
17 guys came into office, I don't think you ever gave a
18 single engineering project to anyone other than the one
19 firm --

20 COUNCILMAN CORTES: Yes.

21 MAYOR KANITRA: -- every single time.

22 COUNCILMAN CORTES: Well, on -- you're
23 -- you're correct. You know, I'm leading into this:

24 Okay. Did anybody know that we --

25 MAYOR KANITRA: We've already --

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1 already given a lot of projects out to different
2 engineering firms.

3 COUNCILMAN CORTES: Right.

4 MAYOR KANITRA: I think in the first
5 six, seven months of this administration, we've
6 actually given more projects out to different
7 engineering --

8 COUNCILMAN CORTES: Okay. Okay.

9 MAYOR KANITRA: -- than the last
10 (indiscernible) combined.

11 COUNCILMAN CORTES: Okay. My -- my
12 report. Thank you.

13 Did anybody know that Maser Consulting
14 was purchased by a Canadian international real estate
15 company in March?

16 MR. RIORDAN: Yes.

17 MAYOR KANITRA: Yes.

18 COUNCILMAN CORTES: Who's saying that?

19 MR. RIORDAN: I am, Kevin.

20 COUNCILMAN CORTES: All right.

21 MR. RIORDAN: It was -- it was all over
22 the news.

23 MAYOR KANITRA: They let us --

24 COUNCILMAN CORTES: Okay.

25 MAYOR KANITRA: They let us know that

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1 they were acquired too.

2 COUNCILMAN CORTES: Excuse me?

3 MAYOR KANITRA: They were acquired by a
4 conglomerate, and they are functioning as their own
5 stand-alone unit.

6 COUNCILMAN CORTES: Well, you know,
7 again I -- it would have been nice to know because you
8 never know. It's a Canadian company, and, you know --

9 MR. RIORDAN: I'm sorry, Andy. If I --
10 if I thought you hadn't seen it, I would have brought
11 it to your attention. I'm sorry.

12 COUNCILMAN CORTES: No, but I just --
13 hey, from personal experience I used to work for a big
14 corporation, and from personal experience I know
15 changes were made, hence my position was eliminated.
16 So it just is concerning. That's all. You know, that
17 happened in March and here it is in July. That's --
18 that's about it.

19 Okay. I'm moving on.

20 Everybody seemed to make a comment
21 about ordinances. I know that I don't want to be
22 perceived if I make negative comments that I'm not for
23 the town. Hell, I'm in my third term. I love the
24 town. I grew up here. I like trees. I like the
25 beach. I like bringing a cooler to the beach. But on

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1 that note, once again, for the second meeting in a row,
2 a revision came out at 11:02, the morning of the
3 meeting. And I work out on the road. I got to settle
4 down and read it at about 5:30. You'll have to take my
5 word on that.

6 Now, we have had -- we've had 13
7 meetings since the beginning of the year. Five of
8 those meetings have had revised agendas that came out
9 the day of the meeting. That's just not right, you
10 know.

11 MAYOR KANITRA: As far as in the number
12 changed, there are line change -- there's something
13 unneeded as a result of the lead-up to the meeting.

14 COUNCILMAN CORTES: Okay. Well, the
15 point is -- another point of order, Mayor, if I may.

16 MAYOR KANITRA: Go ahead.

17 COUNCILMAN CORTES: I had to print out
18 the old ordinance and the new ordinance and try to scan
19 through them. If there's a change made, why can't it
20 be redlined? Why can't it be noted? Why can't it be
21 in bold type? Okay. That's all I have to say.

22 With that, the -- the Shade Tree
23 Ordinance, I'll -- I'll, you know, mention that one
24 first. I like trees. I do. I actually looked up
25 Spring Lake, Manasquan, Belmar, Point Borough and Bay

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1 Head.

2 Bay Head is a little unique. They kind
3 of call it a buffer and landscape thing.

4 But Spring Lake, they talk pretty much
5 about public property, borough property. They use
6 words in theirs, "encourage" and "recommend." They
7 don't use the word "require." They have a shade tree
8 committee, not a commission.

9 Manasquan, a shade tree commission.
10 The building department, the zoning department handle
11 things more so than the shade tree commission. And
12 they mention private property just once in their whole
13 grand scheme of things.

14 Belmar, mainly public property again.

15 Borough property is mentioned. Now,
16 granted, Point Borough doesn't have any shade tree
17 commission or committee. They go through zoning and
18 code enforcement, and they have wording that says "any
19 tree in the borough," so that would constitute public
20 and private.

21 My issue with this is that it's another
22 group of people, volunteers, that are going to have say
23 on private property. I -- I think if you're going to
24 tear a house down, nine out of ten times you're going
25 to have to go for a variance, so you're going to have

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1 to deal with that board asking regulations and
2 enforcing what's going on. And now you're going to
3 have to go against, you know, the Shade Tree Commission
4 if you have trees.

5 The biggest problem I have is having to
6 go through the Shade Tree Commission prior to getting a
7 building permit. None of these other towns have that
8 verbiage in there. You didn't have to go through them
9 first to get a building permit. That's just my
10 concerns. Once again, I like trees. I think trees are
11 nice.

12 The biggest thing -- I know Spring Lake
13 was referenced -- the planting strip between the curb
14 and the sidewalk on every Spring Lake street, because I
15 rode them out, is four to five feet wide. Ours is two
16 feet. That gives them a very distinct advantage in the
17 type and size of tree that they can plant. Okay?

18 The next one is the not so much -- I
19 mean, Councilwoman Testa referred to it -- to it as the
20 Cooler Ordinance, but it's ocean, beaches and waters.
21 The first thing that comes out to -- in my mind, hours
22 of operation, and that to me -- unless I've missed a
23 revision somewhere, it doesn't say Maryland Avenue
24 Beach, it says basically all beaches. Am I right?

25 MAYOR KANITRA: It does. That's

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1 correct.

2 COUNCILMAN CORTES: Okay. Now, we have
3 government here trying to tell private business when
4 they can operate.

5 The second thing about having people of
6 18 years of age or older, now we're telling private
7 business who they have to hire. That's -- that's an
8 issue. You know, I have a small business here, and I
9 don't want government telling me when I can and cannot
10 operate or who I might have to hire.

11 On the cooler note, Councilwoman Testa,
12 I liked your coolers. I liked your presentation.

13 COUNCILWOMAN TESTA: Thank you.

14 COUNCILMAN CORTES: That was very good.

15 COUNCILWOMAN TESTA: Thank you.

16 COUNCILMAN CORTES: I mean, obviously,
17 for you to do a comedy act, and maybe pull a shovel or,
18 you know, bigger items out of there --

19 COUNCILWOMAN TESTA: I was going to,
20 but I decided not to.

21 COUNCILMAN CORTES: Okay. It was --
22 and I know, Mayor, that -- that you know about this,
23 and I'm just going to mention it so that the general
24 public knows. If this is going to go through, which I
25 have a feeling it will because the votes are there,

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1 instead of having badge checkers with a tape measure or
2 a box or a yardstick, I -- it was mentioned through a
3 third party to me and I know the same to you, that why
4 don't we have single-handle, single shoulder strap, no
5 backpack, no wheels, no two handles, no modified
6 handles. That would make something easier when
7 somebody walks up if they're carrying a -- I think,
8 Councilwoman Testa, you have your --

9 COUNCILWOMAN TESTA: Right.

10 COUNCILMAN CORTES: You slung it over
11 your shoulder, a single shoulder strap.

12 COUNCILWOMAN TESTA: Yes.

13 COUNCILMAN CORTES: You know, just to
14 make it easier on these 18-year-olds, if they're going
15 to be 18 or -- or older. You know, instead of having
16 them measure something to set it in a box, you know, a
17 single handle, single strap.

18 COUNCILWOMAN TESTA: Yeah. I agree
19 with you, and there's so many different designs. That
20 was just the ones I had, you know, Andy, on hand.

21 COUNCILMAN CORTES: Right.

22 COUNCILWOMAN TESTA: There's so many
23 out there that are -- you know, that you can use.

24 Sorry. I didn't mean to interrupt you.
25 I'm sorry.

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1 COUNCILMAN CORTES: No, no, that's
2 fine. I just -- I'm trying to --

3 MAYOR KANITRA: The problem is you can
4 put a strap on a lot of different things and --

5 COUNCILMAN CORTES: No, you can't -- no
6 aftermarket or modified cooler. Like, yes, I can put
7 rope between a two-handle cooler and sling it over my
8 shoulder, but that's pretty obvious that it's a two-
9 handled cooler with an aftermarket strap, if you will.
10 You know, just a thought. As much as I don't like
11 certain points of the ordinance, I have a feeling the
12 introduction votes are there, Mayor. So I'm, you know,
13 just giving my two cents in.

14 MAYOR KANITRA: Okay.

15 MR. RIORDAN: Actually, if I might, if
16 you look at Spring Lake, Section 356-15, I think you'll
17 see it's identical to what's proposed for the Beach.

18 COUNCILMAN CORTES: You're going to
19 make me look it up. Okay.

20 MR. RIORDAN: Well, you don't have to
21 look it up right now, Councilman. You can -- I just
22 wanted you to have the chance to look it up at a later
23 date.

24 COUNCILMAN CORTES: Three dash --
25 Spring Lake, three dash what?

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1 MAYOR KANITRA: Andy, can you look that
2 up while you -- while Councilman Santanello gives his
3 report?

4 COUNCILMAN CORTES: Yes. I'm -- I'm
5 okay with that.

6 MAYOR KANITRA: Okay. Thank you for
7 your report.

8 Councilman Santanello.

9 I think he unmuted, Doug, or he muted
10 himself. So Councilman Santanello --

11 COUNCILMAN SANTANELLO: Sorry. Can you
12 hear me now? Can you hear me now?

13 MAYOR KANITRA: Yes.

14 COUNCILMAN SANTANELLO: Yeah, you're
15 right. I did mute because you said there was a lot of
16 interference so...

17 MAYOR KANITRA: Okay.

18 COUNCILMAN SANTANELLO: So, just to
19 start, we've mentioned the word (indiscernible) before.
20 I promise you I'm avoiding (indiscernible) tonight. I
21 do have some -- some concerns about some of these
22 issues.

23 First, I want to say thank you to Doug
24 and Shade Tree Commission for looking at that issue on
25 Central Avenue. I'll remind everybody that I brought

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1 it up twice in the last two months. But I guess
2 somebody else spoke louder, and they said it was
3 (indiscernible). So thank you very much for that.

4 I'm getting some background
5 interference here.

6 MAYOR KANITRA: I am -- I am --

7 COUNCILMAN SANTANELLO: I think it's
8 that 732-581-5965.

9 COUNCILMAN VITALE: Yeah, that's --
10 that's Councilman Migut.

11 MAYOR KANITRA: Can you mute him until
12 later.

13 COUNCILMAN VITALE: Yeah.

14 MAYOR KANITRA: All right. Thanks.

15 COUNCILMAN SANTANELLO: All right.
16 Appreciate it.

17 All right. I'm concerned about
18 warnings and fines regarding the weeds. I've gotten a
19 considerable number of phone calls and emails in
20 regards to this, that you're being inconsistent. So
21 for instance on Ocean Avenue, a code enforcer went out
22 and wrote warnings about weeds and things like that.
23 But the problem is when that went out they were
24 incorrect. They were getting summonses -- not
25 summonses but warnings for (indiscernible) versus

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1 (indiscernible) which is what the ordinance is.

2 And then downtown there were fines
3 without warnings. And I do understand that our Code
4 Enforcement Officer Gina had said she was uncomfortable
5 with this because it conflicts with the code in
6 particular. And if we're going to have code
7 enforcement enforce codes, they should be enforcing the
8 codes as they read, not based upon somebody's
9 interpretation.

10 MAYOR KANITRA: Can I have a second,
11 Councilman, because I think this is important?
12 Because, you know, we are very close to talking about
13 an employee and the concerns that you're bringing up in
14 terms of performance and, you know, what expectations
15 are --

16 COUNCILMAN SANTANELLO: I'm not talking
17 about -- I'm not talking about performance at all. I'm
18 talking about whether or not you, as the Mayor, are
19 asking a public employee to do things that are outside
20 of what code has listed in our ordinances. So I'm not
21 talking about the code enforcement officer. I'm
22 concerned about --

23 MAYOR KANITRA: Why don't you c.c. the
24 Borough Administrator on anything, and I'm sure she can
25 answer any of your concerns.

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1 COUNCILMAN SANTANELLO: Anyway, I'm
2 going to finish what I'm saying. I'm very concerned
3 about asking our code enforcement officers to disobey
4 ordinances based upon an order from the Mayor. I have
5 a very big concern about that. They've got to follow
6 the codes as they are, plain and simple.

7 I want to -- I want to echo Councilman
8 Cortes' concerns about revised ordinances, and I would
9 ask the same thing he did. If somebody could circle it
10 and just tell us where the changes are. I didn't have
11 a chance to go through them. And like Andy said, you'd
12 have to put them out and compare them side to side.

13 And it's better for our residents as
14 well because they read through the ordinances and then,
15 of all sudden, there's a change in the ordinance and
16 they're not aware of it, and we start talking about
17 certain things on that, and they don't understand it.

18 So if they could circle that and make
19 people aware of it, I think that would be very
20 important.

21 I want to talk about the tree -- the
22 tree ordinance. So can somebody tell me specifically
23 what the revision was today on the tree ordinance?

24 MAYOR KANITRA: I can tell you exactly
25 what it was. It was a numerical change. I believe the

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1 Borough Administrator or the Borough Clerk, somebody
2 used an old version that had four inches on there. And
3 we -- things were going around quite a bit. So it's
4 fully understandable. So we sat down and --

5 COUNCILMAN SANTANELLO: That's fine.

6 MAYOR KANITRA: I'm just giving you my
7 -- and we sat down with John Terrazzi. I believe Anne
8 Lightburn did, and now it is delineating the difference
9 in the footprint of the home and the buildable area of
10 the home and in the perimeter. And for the perimeter
11 it's been increased from four inches to six inches.
12 In the buildable area of a home, it's been increased
13 from four inches to twelve inches. And, in addition to
14 that, the \$500 fee, I believe, has been taken out. And
15 that's it.

16 COUNCILMAN SANTANELLO: Excellent.

17 Well, that's good. That -- that's my point. In other
18 words, these are things that would have helped me to
19 want to support it more. So it would be much easier if
20 we knew what they were.

21 MR. RIORDAN: And, Councilman, my -- my
22 apologies. I'll make sure that I do that.

23 COUNCILMAN SANTANELLO: And to go back
24 to what I was saying about the tree ordinance. I've
25 been too close to this. I wanted to be able to give a

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1 speech about compromise and meeting in the middle and
2 things along those lines, but I'm not going to be able
3 to, and I'll tell you why. There was one thing today
4 that I think was excellent -- and, Andy, I hope you're
5 paying attention to this because you were a little
6 mistaken. The thing that I like is it took the Shade
7 Tree Commission out of the process and put it in the
8 hands of code enforcement. If I'm reading that
9 correctly, they don't have to go before the Shade Tree
10 Commission. It goes before the code enforcement
11 officer. Am I correct?

12 MR. RIORDAN: You are absolutely
13 correct, Councilman. I -- I -- I chose not to bring
14 that to Councilman Cortes' attention at the present
15 moment.

16 COUNCILMAN SANTANELLO: Okay. I just
17 want to let Andy know that. But I think that's --
18 that's an excellent change because, you know, there's
19 some people in the Shade Tree Commission that I trust
20 to be fair and honest but there are other ones on there
21 that I think would let the power go to their head and
22 really screw with people. So that's a good change.

23 The one thing -- Paul, if you remember
24 the one thing that we talked about when you stopped at
25 my house the one day was that I love trees too. I put

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1 in four beautiful new trees. It was my choice. But
2 the problem that I feel with this ordinance more than
3 anything is (indiscernible). That's what disturbs me
4 the most. I think that's the -- that's the part that I
5 don't like. I would have liked to have seen it become
6 part of the final p.o. rather than (indiscernible) you
7 get a permit.

8 As far as I know, that's the only thing
9 that stops them from getting a permit other than going
10 before the Board of Adjustment for a variance. So for
11 that one reason in particular I'm going to vote no, but
12 I really did want to vote yes.

13 And I do appreciate the fact, Paul,
14 that you did listen to my concerns. I know you paid
15 attention to them, and I do believe there's going to
16 come a point where there's going to be an ordinance
17 that we disagree upon but that we can meet in the
18 middle. So, again, thank you for paying attention. I
19 do appreciate that.

20 The second thing -- one more thing on
21 the shade tree. I did get more calls against it than I
22 did in favor of it. Yes, we all received the same
23 emails with people supporting it. But the people I
24 talked to didn't like it at all. They thought it was
25 too costly and too punitive and we overreach. But it

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1 is what it is.

2 Beach rules, I said last time the tree
3 ordinance was one of the worst ones I've seen but this
4 one is a little bit worse. Again, I'd like to know
5 what the revisions were specifically to the Beach Rules
6 Ordinance.

7 MAYOR KANITRA: They changed the time.
8 It was actually less restrictive. It changed the time
9 from 6 p.m. to 7 p.m., and it allowed for surfers and
10 fishermen to -- to go up there.

11 Am I -- am I missing another component,
12 Borough Attorney? I thought it was very simple.

13 MR. RIORDAN: I think that's it, Mr.
14 Mayor. I'm pretty sure.

15 COUNCILMAN SANTANELLO: All right.
16 Well, that's good because the first thing that I was
17 going to talk about was banning people from fishing and
18 surfing (indiscernible) --

19 MAYOR KANITRA: We --

20 COUNCILMAN SANTANELLO: Good. So I'm
21 -- I'm fine. But, again, it would be much easier if
22 those things were circled.

23 My other deterrence, though, again, is
24 going to be the cost in legal fees because -- and I
25 have to tell you -- this is the truth -- I wrote this

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1 before we got the emails today from Kraft today. For
2 anybody that's on (indiscernible) CRAB. I believe
3 we're going to get sued from them. There was a veiled
4 threat from them when they put in the Bay Head lawsuit
5 that they had won so -- we'll also have a problem with
6 the (indiscernible).

7 MAYOR KANITRA: Just -- just -- just
8 for your knowledge, I actually spoke with a
9 representative from all those groups, Surf Rider, CRAB,
10 the Litoral Society, all those groups, and they
11 actually looked at our language. We sent them the
12 language. I believe the diving reached out to
13 Councilman Vitale and had one or two other small
14 changes, and they were fine with it.

15 COUNCILMAN SANTANELLO: Okay. I just
16 we're great.

17 Some of the other things that I'm
18 concerned about was the no tables, cooking, pots and
19 pans on the beach. I like that when people come to the
20 beach. It means that places like Martells and Jenks
21 now can't have outdoor events like that on their
22 property because -- and as far as I could tell it's on
23 the Martell beach bar. I think about the beach owner
24 being fined and prosecuted if somebody sneaks alcohol
25 onto the beach without their knowledge, I think that is

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1 a horrible thing to put onto these people.

2 I like the part about the -- all right.

3 So here's what I -- I think the thing about loud
4 noises, using bad language, the way it reads is kind of
5 ridiculous. It says to the annoyance of any other
6 person. Well, who's the judge of that? I mean, to
7 give an example, I hate country music. So does that
8 mean that I get to call the police if I hear a Luke
9 Bryan song, or if somebody going past the Cochran
10 House playing their music, do they get to call as well?
11 I think this part opens us to massive litigation
12 because it's terribly weak and unenforceable. And I
13 don't think we're going back to having the police have
14 the decibel meters (indiscernible).

15 No, ball playing or surfing -- well,
16 we'll get rid of the surfing part. But no ball playing
17 which means, I guess, there's no more volleyball up
18 there which I think is pretty cool as well.

19 **MAYOR KANITRA:** But the --

20 **COUNCILMAN SANTANELLO:** Paul, can you
21 please stop interrupting me and let me finish. I don't
22 mind if you want to make a point here and there, but
23 every sentence I talk about you want to interrupt me,
24 and I don't appreciate that. I don't interrupt you
25 when you're talking. As you said before, point of

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1 order. So please hold off until I'm done with this
2 part.

3 All right. Dogs only from 10/1 to 4/30
4 from eight to three. So if you work and want to walk
5 your dog on the beach, you're out of luck. Dogs are
6 not allowed on the beach as far as I know. No dogs
7 allowed on the beach except Maryland Avenue now because
8 (indiscernible) and I think it's kind of weird that the
9 only place where dogs are allowed is by the Mayor's
10 house.

11 Now, what about movies on the beach?
12 (Indiscernible).

13 So I'm done with that part of it so,
14 Paul, please free to --

15 MAYOR KANITRA: Okay. I just want to
16 make a couple of points that you either conveniently or
17 not conveniently omitted.

18 The -- the Dog Ordinance hasn't changed
19 at all, correct, Borough Attorney? It's been that way
20 since the beginning, correct?

21 MR. RIORDAN: Correct.

22 MAYOR KANITRA: Okay. Thank you very
23 much.

24 Okay. After the --

25 MR. RIORDAN: Well, wait. We were

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1 never allow -- we were never allowed to have dogs on
2 the beach in the past ever.

3 MAYOR KANITRA: That's not true.
4 That's not true. It's been allowed on the one
5 municipal beach for five years, Council -- Borough
6 Attorney?

7 MR. RIORDAN: I don't remember quite
8 the number of years. The Chief might be able to help
9 me. But, yeah, the ordinance that you now have in
10 front of you is basically the Maryland Avenue Beach
11 Ordinance extended to all of the beaches with a few
12 minor tweaks, none of which are any that Councilman
13 Santanello was interested in.

14 MAYOR KANITRA: He is welcome to speak,
15 but he is not welcome to his own facts, I believe is --
16 is the term.

17 I also wanted to go into the ball
18 playing. That hasn't changed. And if read the last
19 line after ball play and surfing which is the line that
20 has always been there which is to the effect that it
21 would be intrusive to other people. So you playing
22 volleyball on Maryland Avenue beach is fine. You
23 starting to throw a football around with 20 people
24 underneath where you're throwing, that's not fine.

25 And going back to your music thing and

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1 trying to make it seem like we are discriminating
2 taste, annoyance means -- and the Borough Attorney can
3 back me up on this -- the hoards of children that are
4 going up and down the boardwalk with their own music
5 blaring whatever very loudly and subjecting boardwalk
6 residents and all of our guests to that, that would be
7 considered an annoyance. You going down to the beach
8 and playing rap music or country music or polka for the
9 enjoyment of your group is fine. Me going down to the
10 beach and having to listen to whatever you play is not
11 (indiscernible) and that's what the ordinance is. So I
12 just wanted to clarify those three points. I know that
13 it's convenient to leave out a little bit, but I
14 appreciate it regardless.

15 COUNCILMAN CORTES: I guess if you play
16 while you social distance.

17 MAYOR KANITRA: The --

18 COUNCILMAN SANTANELLO: I do believe --
19 I believe they're unenforcement.

20 A MALE VOICE: (Indiscernible).

21 COUNCILMAN SANTANELLO: Oh, come on.
22 Is this my report or everybody else's report.

23 MAYOR KANITRA: You said you were done
24 at the end. You just said you were done.

25 COUNCILMAN SANTANELLO: I said I was

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1 done with that part of it. I said I was done --

2 MAYOR KANITRA: Okay.

3 COUNCILMAN SANTANELLO: -- with that
4 part of it.

5 MAYOR KANITRA: Sorry.

6 COUNCILMAN SANTANELLO: I want to
7 repeat that I find it unenforceable and vague and I
8 think it leads to lawsuits.

9 Okay. I'll keep going. My last one
10 here. And, again, I'm trying not to do the
11 (indiscernible) tonight. I'm trying my best not to,
12 but here's my concern and I'm hoping that you folks
13 will listen to me a little bit on this, and it's with
14 regard to the skate park. Okay.

15 Again, I'd like to know specifically
16 what the revisions are.

17 MAYOR KANITRA: The revisions for the
18 Skateboard Park Ordinance had to do with a letter that
19 we received from Michael Aderone (phonetic) or somebody
20 like that at the JIF who said that we needed to have
21 knee pads and everything like that for everybody. It
22 has capacity restriction because we just shut our
23 summer camp down because we can't have people in
24 (indiscernible) places. And having more than ten
25 people in the skateboard park is probably not safe

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1 considering if you can't have social distancing there.
2 It allows for the permitting process.

3 COUNCILMAN SANTANELLO: Okay. Thank
4 you. I appreciate that.

5 So my biggest concern with the way the
6 ordinance reads is you're putting in permanent
7 solutions for a temporary problem. And you just said
8 it yourself which is that it is about social
9 distancing, wearing masks and things along those lines.
10 It is a permanent ordinance. It's not a -- a -- a
11 temporary ordinance. It's a permanent ordinance. I
12 don't think that the ordinance should read that
13 permanently they need face masks, hand sanitizers and
14 social distancing. I think that it should say during
15 the pandemic or in emergency situations. It should
16 read that way.

17 There are no other facilities in town
18 with a permit requirement. For instance, the farmers
19 market, basketball courts, you mentioned the camp, the
20 Little League fields, tennis courts or boardwalk. None
21 of them have it as a permanent thing. I think that
22 needs to be a temporary type of thing.

23 I also find the thing about not using
24 other's equipment kind of weird. Being that it's a new
25 skate board park and someone saying that's pretty cool,

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1 can I try a couple of spins around? I mean, and that's
2 kind of unenforceable again.

3 I don't like the ten-user thing. If
4 it's designed for, again, just the whole pandemic
5 thing, that's fine but it should read that way, during
6 the pandemic.

7 My biggest concern is (indiscernible)
8 from members of the skateboarding community. Now, most
9 of them, as I do, want this to open. I desperately
10 want it to open. I think it's going to be a great
11 thing for our town. I think it's going to be
12 wonderful. But a lot of people feel that the way it's
13 written is designed for the skateboard park to fail,
14 that it's going to lead automatically to a whole bunch
15 of, you know, summonses and things along those lines.

16 The other concern that everybody has --
17 and I'm -- I'm going to make everybody mad -- I don't
18 think we should open up the skateboard park this
19 summer. I think we should wait till the fall, because
20 what's going to happen if we approve it tonight and we
21 approve it on August 4th and it opens up on August 5th,
22 in the middle of the summer and all these kids are
23 coming down and say, wow, there's a skateboard park
24 there. No matter how many signs we have up and how
25 much enforcement you have up there, there's going to be

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1 violations. And then all of a sudden (indiscernible)
2 going to be at the park. People are going to call the
3 cops every hour saying there's 12 people, there's 14
4 people, somebody doesn't have a helmet or somebody is
5 using somebody else's skateboard.

6 So I'm going to kind of piss everybody
7 off and say let's not open it until September when the
8 locals get to use it first, and then after that
9 (indiscernible) and all that kind of stuff.

10 My other concern is about the permit
11 itself. It's very vague as to how the permit is
12 handled. I think a permit is a great idea. The
13 skateboard community doesn't disagree with that. But
14 how is it supposed to be displayed? Is it a sticker?
15 Is it a -- is it like a hunting license where you stick
16 something inside a clear plastic bag and you attach it
17 to the back of your shirt or something like that?

18 I just think it needs a little more --
19 a little more attention to it. As it stands it -- it's
20 almost designed to have just a ton of ordinance
21 violations in the first month or so, so the people that
22 are against this can come out and say look how horrible
23 it is, let's shut it down.

24 So I'm going to ask everybody a favor.
25 I'm hoping that you'll -- that you'll agree with me

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1 that maybe we need to tweak a little here and there to
2 make it more realistic in the long term.

3 So I'd like to see -- I'd like to make
4 a motion to hold the Skate Park Ordinance until the
5 next meeting. We can get a little bit more input on
6 the things that are, again, permanent solutions for
7 temporary problems. So I'm making that motion.

8 MAYOR KANITRA: There's a motion on the
9 table. Is there a second?

10 COUNCILWOMAN TESTA: I will actually --
11 I will actually second that motion because I am in
12 agreement with Bob on that.

13 MAYOR KANITRA: Okay. Great.

14 COUNCILWOMAN TESTA: I am because I
15 feel if we're going to open it to have it fail, then we
16 shouldn't open it in the sense that maybe we could look
17 at it. Because the truth is, the Rec. Program just
18 shut down permanently.

19 MAYOR KANITRA: I'm sorry to interrupt.
20 But when there's a motion we can't --

21 COUNCILWOMAN TESTA: I'm sorry. I'm so
22 sorry. I'm sorry.

23 I second the motion.

24 MS. FARRELL: Councilman Vitale.

25 COUNCILMAN VITALE: Yes.

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1 MS. FARRELL: Councilwoman Testa.

2 COUNCILWOMAN TESTA: Yes.

3 MS. FARRELL: Councilwoman Byrnes.

4 COUNCILWOMAN BYRNES: Yes.

5 MS. FARRELL: Councilman Cortes.

6 COUNCILMAN CORTES: Absolutely, yes.

7 MS. FARRELL: Councilman Santanello.

8 COUNCILMAN SANTANELLO: Yes.

9 MS. FARRELL: Councilman Migut.

10 COUNCIL PRESIDENT MIGUT: Yes.

11 COUNCILMAN SANTANELLO: All right.

12 Well, I -- I'm just going to say thank you very much to
13 everybody for that. This is kind of like the point
14 that I was trying to make earlier. I wasn't trying to
15 be argumentative with you, Mayor. I really do truly
16 think that there are issues we can meet in the middle
17 on, and that's why I tired not to (indiscernible)
18 tonight (indiscernible) and things like that. While we
19 disagree on things, I do think there is a way for us to
20 work together.

21 And I can't thank everybody enough from
22 the bottom of my heart for agreeing to hold this a
23 little bit.

24 And so I was going to asking the -- I
25 was going to (indiscernible) Borough Attorney Riordan's

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1 bill again, but, you know what? In the spirit of
2 compromise and getting along, I will not do that this
3 meeting.

4 MR. RIORDAN: Thank you, Councilman.

5 Might I, in the same spirit, suggest in
6 an effort to make you feel better about the
7 enforceability -- and I definitely recognize your
8 concerns. They are not unfounded. But the ordinance
9 that we drafted, we -- we took stuff from Long Beach
10 Township and Seaside Park and Bradley Beach. And so
11 the words that we used have been, if not well-tested,
12 at least have been on the books in other places for a
13 long time. We didn't pull them out of thin air.

14 COUNCILMAN SANTANELLO: That's fine.
15 What I'd like to do, believe it or not, is set up a
16 time for you and I to sit and talk about this
17 (indiscernible). Does that work for you?

18 MR. RIORDAN: Absolutely.

19 COUNCILMAN SANTANELLO: Okay. Thank
20 you.

21 Mayor, I'm done.

22 MS. FARRELL: Just to confirm. This
23 motion was to table the ordinance, correct?

24 MAYOR KANITRA: Yes.

25 MS. FARRELL: Thank you.

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1 MAYOR KANITRA: And, Councilman, I -- I
2 wanted to apologize for interrupting you at the end
3 there because I really did think that you said you were
4 done. If not, I would not have -- have done that.

5 And whether -- whether you are lulling
6 me into a false send of security or not, I thought you
7 were going to be much more bombastic this evening. And
8 I'd like to thank you for how nice you were and how --
9 and how cordial your report was. And that -- that
10 tabling that was a good decision. Just remember when
11 the skateboard community complains about not opening it
12 the first week of August, I'm (indiscernible).

13 COUNCILMAN SANTANELLO: What's that? I
14 missed the last sentence.

15 MAYOR KANITRA: When the skateboard
16 community is upset that we're not opening right away,
17 the first week of August, I'm giving them your phone
18 number.

19 COUNCILMAN SANTANELLO: Please do. I
20 said -- as I -- as I mentioned before I figured I would
21 piss everybody off tonight on both sides. You know, I
22 just -- again, you know, in the spirit of compromise.

23 I appreciate the fact that you came to
24 my house that one day and I say again that we can find
25 things to get along with on despite the fact that I'm

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1 going to vote no on three of the four remaining
2 ordinances tonight.

3 (Laughter)

4 MR. RIORDAN: So we can point to you
5 when the skateboard community objects.

6 MAYOR KANITRA: All right. Thank you,
7 everybody.

8 Moving on. Council President Migut.

9 COUNCIL PRESIDENT MIGUT: Thank you,
10 Mayor.

11 Can you hear me?

12 MAYOR KANITRA: Yes, I can hear you
13 loud and clear.

14 COUNCIL PRESIDENT MIGUT: Okay. The
15 Animal Welfare Committee has decided to postpone all
16 fund-raising gatherings for the foreseeable future due
17 to COVID-19.

18 The Planning Board will meet in August
19 to (indiscernible) a previous approval by resolution.
20 That will be a virtual meeting.

21 The Parking Authority will meet in
22 August virtually. And I am happy to report that the
23 first applications for the Employee Parking Pass
24 Program have been delivered to Borough Hall during the
25 week. So we'll get passes issued and employees from

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1 downtown businesses will begin utilizing the railroad
2 lot.

3 MAYOR KANITRA: Great.

4 COUNCIL PRESIDENT MIGUT: The Shared
5 Services Agreement with Bay Head and Mantoloking for
6 financing the repair to the town ambulance is being
7 finalized.

8 Kevin, do you foresee that happening
9 this week?

10 MR. RIORDAN: I'm not sure, Councilman.
11 I have my partner working on it. I will check with
12 him. I apologize.

13 COUNCIL PRESIDENT MIGUT: Okay. And
14 probably my most important report of the evening from
15 the Finance Committee. I've heard from our tax
16 professionals to expect many tax appeals and
17 revaluation requests due to government-imposed
18 restrictions affecting the (indiscernible) of
19 businesses in coming years. I'm speaking first on the
20 State COVID-19 restrictions, but also restrictions on
21 boardwalk businesses being introduced tonight. As an
22 example, many landlords of commercial properties are
23 dealing with tenants' needs to help them get by. So
24 the property did not have the same profitability as it
25 was assessed at. So they may be entitled to tax

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1 relief. This statement was edited by (indiscernible)
2 the tax assessor and the municipal tax appeal attorney
3 for your consideration.

4 MR. RIORDAN: I'm sorry, Tom. Which
5 attorney looked that over?

6 COUNCIL PRESIDENT MIGUT: The tax
7 appeal attorney.

8 MR. RIORDAN: We don't have a tax
9 appeal attorney. So who looked it over?

10 COUNCIL PRESIDENT MIGUT: Mr. Dasti.

11 MR. RIORDAN: Yeah. Okay. Well,
12 that's not my opinion. I -- I disagree with it
13 wholeheartedly. We'll talk about it after the meeting
14 and I'll talk to Mr. Dasti about it tomorrow.

15 COUNCIL PRESIDENT MIGUT: Okay.

16 That's all, Mayor.

17 MAYOR KANITRA: Okay. Thank you very
18 much, Council President. I appreciate that.

19 So I'm just going to -- I'm just going
20 to get right into it here. You know, I know why we
21 have a hundred-plus people on -- on the meeting
22 tonight, and, you know, we're not going to beat around
23 the bush. I think Point Pleasant Beach doesn't need to
24 be resigned to a fate as a mediocre town, as a
25 hash-filled town, as a weed-filled town. Our residents

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1 don't need to just accept (indiscernible) because they
2 were allowed to act like lunatics on the beach. And it
3 shouldn't fall on the shoulders of a 24-person police
4 department either, you know. Our businesses don't need
5 to close and suffer just because we were too lazy to
6 have a plan to help them or fix up our downtown.

7 And, you know, we've all seen the
8 problems that are going on here. And -- and I think
9 the ordinances in front of us clearly show that we're
10 trying to take strong, strong stances against
11 everything. And I want to be clear. You know, this
12 town is going to get turned around. I wasn't elected
13 and -- and the other Council Members weren't elected to
14 be wallflowers or be like do-nothing politicians. Our
15 campaign was about exactly what we're doing.

16 You know, I didn't take this job for
17 ribbon-cutting ceremonies or to have an office that
18 says "Mayor" on the door. I took it to get things
19 done. In my opinion hard work gets things done, not
20 political theater. And we're going to be acknowledging
21 the problems that we have and not sticking our heads in
22 the sand. We're going to fix them with real solutions,
23 not -- not b.s. You know, this Council is going to
24 act.

25 And I'm going to start off my report

1 tonight by showing very clearly how we've listened to
2 the residents and -- and kind of what steps we're
3 taking to get things moving in the right direction.

4 So I guess I should start and say,
5 like, first, you know, let me say these problems didn't
6 happen overnight that we're experiencing in the town
7 right now, whether that's downtown, whether it's at the
8 beach or boardwalk, whatever it may be. I think they
9 happened over years of neglect, and they're not going
10 to be fixed overnight either. But we have taken and
11 we continue to take strong steps in the right
12 direction.

13 You know, as Councilman Vitale
14 mentioned in -- in his report about all the stuff that
15 the police department has going on -- has going on
16 right now. You know, the two new officers are really
17 hitting the ground running, and they're really greatly
18 helping our police capacity.

19 We have tickets being issued with our
20 new zero-tolerance policy. And, as he mentioned there,
21 it's over two times what we were at last year at this
22 time.

23 The new beach buggy with CARES Act
24 funding has been going up and down the beach
25 constantly, helping to catch a lot of the things that

1 previously we could not.

2 Weekend code enforcement patrols have
3 started and are cracking down on places throughout the
4 town.

5 DPW is working to get the staff back to
6 full force, and we're going to use CARES Act funding
7 again to purchase a new litter vac.

8 The County has approved our increase in
9 the fines across the board that I mentioned at the last
10 Council Meeting.

11 We have new "No Smoking" signs on the
12 boardwalk. I think we got 20 of them the other day,
13 and we're making up another 10 or 20 as well. And
14 we're also in the process of putting up "No Littering"
15 signs on our parking machines.

16 I've also asked for a quote for four
17 new weatherproof speakers and a flag pole for the
18 police substation. We'll have a recorded message
19 welcoming people to the boardwalk and reminding them of
20 our borough ordinances and what the penalties for
21 breaking them are. Additionally, every day we're going
22 to start doing the National Anthem over those same
23 speakers.

24 On the agenda tonight is Judge Bob
25 LePore, and that's for appointment to replace Judge

1 Liguori after his 30-plus years of service to the
2 community. Bob LePore has built a reputation as a
3 tough but fair judge in Brick Township until he left
4 the position about five years ago. He held the line
5 there, and that's exactly what's needed in Point
6 Pleasant Beach right now, someone that's going to hold
7 the line. He's also a resident who cares about his
8 community, and that's an invaluable asset for us to
9 have.

10 As for the Beach and Boardwalk
11 Ordinance, I think it's absolutely vital to the future
12 of this town that it be passed. The cooler
13 restrictions will reduce litter, and it will make it
14 easier to check for alcohol and drugs. The 18-year-old
15 limit will prevent girls and young boys, from as young
16 as 16 years old and younger, from having to check
17 coolers for substances that they can't even legally
18 touch and having to turn away tough people.

19 I personally went up to the boardwalk
20 last week, as I go up just about every single day now,
21 and I documented these young kids having to do this
22 without any security assistance. It must be stopped
23 and it will be stopped.

24 The music restrictions that Councilman
25 Santanello was talking about will crack down on the

1 people who have been walking up and down the boardwalk
2 blaring their own personal theme music. I have also
3 personally watched people bringing huge speakers down
4 to the beach. The way that this ordinance is written,
5 you still will be able to quietly play music on your
6 cell phone at the beach or on a tiny speaker. You just
7 won't be able to make it so loud that other guests are
8 subject to your musical tastes.

9 The liability component basically makes
10 beach operators finally have some skin in the game.
11 Isn't it about time that they have some skin in the
12 game? Every day I look at TikTok videos and Instagram
13 posts with people blatantly doing drugs and drinking on
14 the beach. My hope is that this will create real
15 incentive for beach operators to properly check bags
16 and coolers. It's that simple.

17 We're also looking to clean up Ocean
18 Avenue, and you'll see that with the Garbage Bag
19 Ordinance. It's pretty simple and common sense as
20 well. All it says is that you can't put a plastic bag
21 out by itself. That tends to be what a lot of visitors
22 do because it's the easiest, and it looks horrendous on
23 Ocean Avenue, especially when they're constantly torn
24 open by seagulls and strewn about. This will still
25 allow for plastic bags if it's overflow from a

1 particular, busy day and they all can't fit in a can.

2 We have our new, amazing downtown
3 banners on the agenda tonight. The Fisher Foundation
4 is going to split the cost with the town again. We've
5 selected eight historic properties from our town's past
6 and they'll be highlighted on the banners. You have
7 the Gottlieb Building. You have Abramoss, I believe.
8 You have the hardware store, some places that I've
9 never even heard of before like Buckalew's Market.
10 We've got some really interesting ones, and I really
11 think you're all going to love them.

12 Finally, the Shade Tree Commission has
13 asked to have the ordinance brought up for discussion
14 tonight. It doesn't mean it's getting rammed down
15 anyone's throats. Government, real government is
16 supposed to work with ideas being brought up and
17 discussed in middle ground fashion. That's what I
18 would hope would happen here tonight.

19 In my opinion, the original ordinance
20 was a little too restrictive. It's been changed to
21 delineate the difference between a tree on the
22 perimeter of your property and one that's in the
23 buildable area. And the diameters have changed greatly
24 as well, as I mentioned previously, to six inches in
25 the perimeter of the house and twelve in the buildable

1 area.

2 There's also been very other onerous
3 parts taken out like the \$500 fee. I'm looking forward
4 to some good back-and-forth there, and, hopefully,
5 there's a compromise that results in us being able to
6 protect the few little trees we have left in town while
7 encouraging more shade canopy as well.

8 And I wanted to end with the quality-
9 of-life reports because there is a tremendous amount
10 going on.

11 Kristen O'Rourke is in the process
12 right now of prepping the quarterly newsletter. We're
13 going to shrink it down to, I believe, two pages which
14 will save us a little bit of money on the printing, but
15 that takes a lot of reformatting.

16 I want to bring to everybody's
17 attention a potential offshore wind farm. And this is
18 something that I am adamantly opposed to. We have
19 something called the Hudson South Pipe off the coast of
20 -- of Point Pleasant Beach, Sea Girt, Manasquan. And
21 the closest point of this is 15 miles. The visual
22 horizon for windmills and wind farms is about 35 miles.
23 At 15 miles you'll be able to sit at your beach and
24 stare at windmills constantly while you're out there.
25 To me it would be absolutely devastating to our tourism

1 industry, not to mention migratory bird patterns, not
2 to mention shell fish grounds and our fishing industry
3 overall.

4 What they've come to already is a
5 transmission table. They're trying to take all the
6 various different areas off of the shores of New Jersey
7 that are going to have these wind farms and they're
8 going to try and bring it in right around Manasquan.
9 And we've already submitted my vehement opposition to
10 that. The lease does not go up for about one year,
11 maybe one to two years or so. But there are two huge
12 conglomerates out there -- EDF which is basically Shell
13 Energy and -- and another group stacking these things
14 up. And, you know, we're going to be following that
15 extremely closely.

16 And I want to thank Kristen O'Rourke,
17 with her legislative experience working in the State
18 Legislature, for really getting us in the game well
19 ahead of time so that we actually can hopefully keep
20 this from decimating all those things that I mentioned.

21 Kristen is also working on the electric
22 vehicle charger grant. She got into the nitty-gritty
23 details about fast chargers versus other charges.
24 That's coming up very quickly. She has a public
25 information engagement opportunity with Sustainable

1 Jersey that she's working on. I believe it's due
2 August 9th. And she's going to work to coordinate a
3 resident survey on that front as well.

4 There's a national archives grant that
5 we're going to be applying for. That is going to be in
6 conjunction with the Historic Commission.

7 There's a landscape restoration grant
8 that Kristen has reached out to the state forester to
9 see how it's going to fit with their plans. That
10 deadline is coming up August 10th.

11 Work on the pop-up shop program is --
12 is continuing. As everybody may have seen, you know,
13 things continue to really go in a positive direction
14 for the Gottlieb Building. Not only did the Fisher
15 Family save that, but here in the middle of a pandemic,
16 they're working with a local woman, Fallon, who is
17 going to be make -- turning it into a market which I
18 think is exactly what we're going to need coming out of
19 the Coronavirus pandemic. It's essentially going to be
20 a makers market. She's going to have different crafts
21 in there, all having little different spaces. She's
22 going to be make it a little bit of an event space.
23 And -- and I don't know if I'm at liberty to say, but
24 there's something really cool planned for the -- the
25 top floor as well.

1 But we're also going to try and
2 implement our own pop-up shop program. You know, we
3 have a problem in town, and, you know, some of you may
4 drive by these things and might see it all the time.
5 We have businesses and land that have been sat on for
6 decades and are one of the main contributors that, you
7 know, create weeds and look like blighted properties
8 here in Point Pleasant Beach. And we're going to try
9 and find ways to either get pop-ups in these businesses
10 temporarily or to encourage the building owners and the
11 landowners to finally do something and develop the
12 property properly.

13 The Volunteer Corps is moving along.
14 The mandatory volunteer form has been emailed to all
15 interested parties. It's legally limited to Point
16 Pleasant Beach residents, age 18 and up because of some
17 of the activities that -- that they'll be undertaking.
18 And Kristen has already finished the volunteers'
19 mission statement.

20 The Senior Committee has a call
21 scheduled with a -- a senior committee in Montclair to
22 understand how they're doing things, because,
23 apparently, they're a model for all of New Jersey.
24 They've drafted a mission statement as well. They're
25 going to print some AARP materials, and we need to get

1 on to our targeted committee membership list sometime
2 over the next couple meetings as well.

3 We're revitalizing the Mayor's Wellness
4 Campaign, and we're identifying potential committee
5 membership, researching health weaknesses in Point
6 Pleasant Beach, and we're developing ideas to combat
7 obesity and smoking and vaping and drinking and mental
8 health and all those sorts of things that hopefully I
9 could use my office to -- to better -- better things a
10 little bit as well.

11 And -- and we're looking at, at
12 something interesting which, you know, might serve as a
13 little bit of an art installation downtown. I
14 mentioned the seagull bike racks. They are essentially
15 little bike racks that are metal that are in the shape
16 of red seagulls. And we're going to be looking at a
17 grant, hopefully from the Fisher Foundation, to start
18 deploying some of those in strategic areas around town,
19 like the town gazebo and the inlet and -- and, you
20 know, Pleasure Park and -- and places like that.

21 Lake of the Lillies, we had some issues
22 there with -- with shocking it for algae this year.
23 Because of all the furloughs at the -- the State level,
24 it took a lot longer than we were hoping. But that is
25 going to be treated this coming -- this coming week,

1 and we continue to work on our lake management plan as
2 well for that.

3 Social media, we've started the first
4 Point Pleasant Beach Instagram account. It's
5 Ptpleasantbeach with the accent in front of it. And
6 anything that's kind of aesthetically pleasing or
7 beautiful about our town, which there's a lot, is going
8 to be going on there.

9 Census 2020, I literally -- I literally
10 received a call from the Governor's Office today about
11 this because we're right around the 50 percent mark of
12 compliance, and a lot of that has to do with the fact
13 that we are about 50 percent nonfull-time residents
14 which obviously is something that this administration
15 is looking to change. I'm asking all of the
16 Nonresident Taxpayer Advisory Committee, and I'm going
17 to reach out to Seth Sloan and them to disseminate to
18 their membership that they need to mark off on their
19 census forms in their home localities that their house
20 here is actually a second home, and that'll help lower
21 our numbers and -- and move our numbers up as well.

22 And the State is talking about and
23 Kristen is talking with both the County and the State
24 about having a census vehicle come to the train station
25 lot so that we can raise a little bit of awareness and

1 -- and get things moving in that direction. And we've
2 even produced some materials for the census in Spanish
3 for the Hispanic community in town so that we can
4 increase their rates as -- as well.

5 We've been working together with
6 Sustainable Jersey and the Ocean County Road Department
7 for maintaining a legislative monitoring spreadsheet
8 for the first time in, I think, possibly ever, where
9 we're looking at the impact of what is going on in the
10 State Legislature to Point Pleasant Beach and finding
11 ways where we might need to -- to lean into that.

12 And work continues on the New Jersey
13 Transit quiet zone.

14 I mentioned that the new banners are in
15 production.

16 And Councilman Santanello will
17 appreciate this. We have quotes for landscaping RFPs
18 and irrigation as well, because I believe he's not --
19 not pleased with the time that Rob is spending on
20 watering, and we might be able to find a cost value
21 proposition, where for a couple of thousand dollars we
22 can get some irrigation placed in and around all our
23 trees, ensuring that they're going to be watered
24 properly on a regular basis and -- and --

25 COUNCILMAN SANTANELLO: Nice work.

1 MAYOR KANITRA: -- and free him up.

2 COUNCILMAN CORTES: It's not -- I don't
3 know if that's Bob, Mayor. That was me. But that'll
4 -- if that irrigation comes in, that'll free up our
5 part-timer, you know, Rob, our part-time guy to do what
6 you were looking to have him do more of, you know, on
7 your campaign.

8 MAYOR KANITRA: And, obviously,
9 necessity is the mother of invention. And, you know,
10 we had a lot of trees that were close to dying, and
11 it's great that he stepped in the way that he did.
12 And, as Anne Lightburn mentioned and a lot of people
13 have mentioned, I think he's been the difference
14 between us having, you know, 50 to 100 dead trees
15 again. And, hopefully, we can help him and help free
16 him to do -- to do even more.

17 And -- and that is it for -- for my
18 report.

19 And I'm going to turn it over to the
20 Borough Administrator. And, as usual, she can cross
21 out the things that I stole from her and -- and fill in
22 the gaps that I forget.

23 MS. RIEHL: Thank you, Mayor.

24 First, I'd like to say we touched on
25 the "No Smoking" signs for the boardwalk. We actually

1 told DPW to install 40 signs throughout the boardwalk,
2 so they are up and installed which is a great help to
3 the police department for enforcement.

4 In addition, I am working with the
5 Department of Public Works and the Police Chief on
6 permanent signs which will probably go up early next
7 year. That will include some of the ordinance changes,
8 if passed, that are on tonight as it regards to beach
9 activities, different fines, and they will be located
10 on the railing at the boardwalk at each beach entrance.
11 So we are continuing to make progress on that.

12 You talked about quotes for a speaker
13 system on the boardwalk. In addition to the four
14 speakers for District Two, I am also getting quotes for
15 -- they're going to be alternate quotes so we can
16 select what we want to do and if we want to go this
17 far. But, in addition, for an illuminated sign board
18 to be erected on District Two and for a full boardwalk
19 system so that we would have speakers that continue
20 both north and south at strategic locations instead of
21 just in the plaza area. So the prerecorded messages or
22 if someone's using live mic, it would -- it would blast
23 throughout the boardwalk.

24 MAYOR KANITRA: That's fantastic.
25 That's great.

1 MS. RIEHL: There are going to be
2 alternate bids. So, you know, depending on how the
3 cost comes in, if we can only do one this year and
4 budget one the next year or, if it's cost efficient,
5 we'll do them all this year. So when those are -- we
6 have two different vendors quoting. I know both of
7 them were up there today.

8 We talked about irrigation. I
9 solicited and actually received quotes on the
10 irrigation systems from two different vendors. The
11 areas in question that I asked to have quoted were for
12 the comfort station at the inlet, across the street
13 from the comfort station where the new vegetation was
14 planted, and then pretty much the entirety of Little
15 Silver Lake from the band shell all the way around to
16 the OCUA pump station, that one being the largest
17 component of the irrigation.

18 One company came in at a total of
19 53,600 for all three locations. The second company
20 came in at a total of 27,590. I do have money left in
21 the --

22 MAYOR KANITRA: Could you repeat that
23 one more time. You cut off for me, Christine.

24 MS. RIEHL: Yes. The two proposals,
25 one for the -- all three locations came in at a total

1 of \$53,600. And the other quote came in for all three
2 locations at a total of \$27,590.

3 MAYOR KANITRA: And what would it
4 entail?

5 MS. RIEHL: Irrigation, soakers,
6 sprinkler heads, installation. It's quite -- it's
7 quite laborious, particularly at Little Silver Lake
8 with the size that we have out there. That was the
9 largest of the two. And I was surprised at the
10 different price quotes. One came in at 48,000 just for
11 Little Silver Lake. The other one for Little Silver
12 Lake was only in the 20 thousands.

13 COUNCILMAN CORTES: Christine, is it
14 possible to see that just so I can look them over,
15 having some knowledge?

16 MS. RIEHL: Yes, of course.

17 COUNCILMAN CORTES: That's a big
18 disparity.

19 MS. RIEHL: It is -- it is a big
20 disparity.

21 What I'd like to do is if we could have
22 authorization tonight after to move forward with this
23 or, if you'd like, I can wait until the August 4th
24 meeting and disseminate the quotes to everyone. Just
25 let me know your preference.

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1 MAYOR KANITRA: I -- I would love it if
2 we could move it tonight and give you the -- give you
3 the ability to work through -- work through the pricing
4 and, you know, have everybody kind of take a quick look
5 at it. But just in terms of authorization, you know,
6 by the next meeting in August and then by the time it
7 gets installed, I assume if we okay it now, we could
8 probably have it in within a couple of weeks which
9 would buy, you know, a ton more hours for Rob for
10 tackling litter and tackling some of the other things,
11 you know, during the busiest month of the summer.

12 MS. RIEHL: The more cost-effective
13 quote came from the company we currently use that does
14 other maintenance on our current sprinkler system. So
15 they are familiar with what we have.

16 So, yes, just let me know how you'd
17 like to proceed.

18 MAYOR KANITRA: Would we decide which
19 one right now or could we just decide to move forward?

20 MS. RIEHL: We could do the
21 authorization to move forward with the irrigation quote
22 and after review --

23 MAYOR KANITRA: Okay.

24 COUNCILMAN CORTES: Christine, why
25 don't you have -- let John Trout -- you know, it's

1 easier for him than any of us. But let him look it
2 over. That's so -- I just want to make sure it's --
3 that you're comparing apples to apples, what you're
4 getting from each one, what material, what -- you know,
5 that's a big -- big difference between quotes.

6 MR. RIORDAN: I think what Councilman
7 Cortes is -- is suggesting -- and I think he may very
8 well be right -- is that somebody very well may have
9 made a mistake.

10 MS. RIEHL: You know what? I called
11 them. Actually, I emailed them and gave them a map,
12 the same -- reiterated you're quoting this entire
13 section of lake, and they said, yes, absolutely. I was
14 surprised as well. But I'll certainly share all of
15 this information.

16 MAYOR KANITRA: Can I -- can I ask a
17 question? Can we -- can we make a motion to move
18 forward with the better quote, the more cost-effective
19 quote, pending the fact that a review by John Trout and
20 even Andy determines that it is -- it is of the same
21 caliber and quality as the other one?

22 MR. RIORDAN: Of course, she can
23 absolutely rely on the -- on the Director of Public
24 Works and Councilman Cortes.

25 COUNCILMAN CORTES: You know, you want

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1 to see --

2 MAYOR KANITRA: Do we have a motion for
3 that?

4 COUNCILMAN CORTES: I'll make the
5 motion to move forward on that. That way it'll free
6 Rob up.

7 COUNCILMAN SANTANELLO: I'll second
8 that.

9 MS. FARRELL: I can just add it to the
10 agenda. Do you want me to just add it to the agenda?

11 MAYOR KANITRA: Perfect. That's fine
12 too.

13 COUNCILMAN CORTES: Okay.

14 MS. FARRELL: Okay.

15 MS. RIEHL: Thank you, Eileen.

16 MS. FARRELL: You're welcome.

17 MS. RIEHL: You spoke about the lake
18 treatment. They'll actually be onsite tomorrow. So if
19 anyone gets reports of a (indiscernible) in the lake,
20 they are actually doing the application of the
21 algaecide in Lake of the Lillies tomorrow. And then
22 the following Tuesday, we will be onsite with our lake
23 shore rehabilitation vendor to talk about progress on
24 the lake shore rehabilitation and to talk about
25 nanobubblers and aeration.

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1 MAYOR KANITRA: Great.

2 MS. RIEHL: I'm going to get with DOT
3 on this Thursday at 35 and Arnold to discuss signage
4 for the left-hand turning lane, the potential for the
5 left-turn only on the signalization and the line
6 painting in the street.

7 The locks of love has been in and will
8 be installed at the inlet tomorrow morning. So we have
9 removed some additional locks that had gone up on the
10 boardwalk. Once the install is done tomorrow, it'll be
11 -- it'll be open for everyone to utilize.

12 I have received quotes and I'm moving
13 forward with renovations to the Council chambers.
14 We're going to be installing new carpeting, paint,
15 blinds and really spruce it up, and we're going to do
16 that before we get back in there.

17 And, lastly, I would just like to say
18 that we are -- we have received seven applications for
19 DPW laborers. We're working through them, and I hope
20 to appoint two very shortly.

21 MAYOR KANITRA: Fantastic. Thank you
22 for all that -- all that you're doing and -- and
23 keeping everything running now that we're -- you know,
24 we're -- we're fully operational in town hall. It
25 seems like we're right where we need to be.

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1 MS. RIEHL: Thank you.

2 That's it.

3 COUNCILMAN CORTES: Mayor, Mayor,
4 before we -- before we go to public, are you available
5 Friday morning?

6 MAYOR KANITRA: I can give you an
7 answer right now, Councilman.

8 I am available -- I am available at
9 nine -- from nine a.m. to ten a.m.

10 COUNCILMAN CORTES: Okay. Nine a.m.
11 Friday.

12 MAYOR KANITRA: Yep.

13 COUNCILMAN CORTES: Okay. I'll meet
14 with you and John Trout. Is that fine?

15 MAYOR KANITRA: As long as you keep six
16 feet away from me, you can meet with me.

17 COUNCILMAN CORTES: I can keep six feet
18 away.

19 MAYOR KANITRA: Fair enough.

20 COUNCILMAN CORTES: Where do we want --
21 where do we want to meet, your office?

22 MAYOR KANITRA: You want to meet at the
23 yard?

24 COUNCILMAN CORTES: Yeah, nine o'clock
25 on Friday over at the yard then. That's great. We'll

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1 just -- we'll get everything onboard, you know, like
2 we, you know, you and I talked about offline.

3 MAYOR KANITRA: Right.

4 COUNCILMAN CORTES: Okay. Thank you.

5 COUNCILWOMAN TESTA: Mayor, can I --
6 Mayor, can I say just two more things real quickly?
7 I'm sorry.

8 You know at town hall again -- this
9 person didn't want to get any recognition. He did
10 something really wonderful. He donated the flowers. I
11 don't where -- Andy Cortes, you know where the outside
12 patio is? I don't know if anyone noticed. There's
13 some ornamental grass. There's --

14 COUNCILMAN CORTES: Yes.

15 COUNCILWOMAN TESTA: Did you see them
16 there?

17 I -- I don't want to mention the -- the
18 resident's name, but he graciously went out and he made
19 that donation to town hall. So kudos --

20 MAYOR KANITRA: Wow.

21 COUNCILWOMAN TESTA: Yeah, it was
22 really, really nice of him. You know, because he could
23 get the plants at half price, and, you know, that was
24 his gift towards the town. He doesn't want his name to
25 be mentioned, but, you know, I just wanted to give a

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1 shout out to him.

2 And I did mention to the Mayor, that
3 they have a hose, Andy, that we could put in there that
4 could water it. I didn't want to put the mulch down
5 until we have that hose. So I don't know if that's
6 something that we could add, maybe possibly get that or
7 the town could get that for us. Is that something
8 maybe we can look into?

9 COUNCILMAN CORTES: It's like a drip
10 hose, right?

11 COUNCILWOMAN TESTA: Yeah. And there's
12 a spigot outside that we can hook it up, and we then we
13 can just put it real close and bury it and then we can
14 put --

15 COUNCILMAN CORTES: Right.

16 COUNCILWOMAN TESTA: -- the mulch. And
17 then we don't have to worry about watering it. And
18 next year you can put some pretty flowers there and put
19 it on a timer. So it'll definitely -- it'll look
20 really pretty. So I just wanted to mention that.

21 And, lastly, I forgot to mention this
22 from one of our residents. Chantel Terrazi, she wanted
23 to give you a special thank you note. "Hi All. I just
24 wanted to say thank you to all involved when I called
25 about the flooding during the last tropical storm. If

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1 you would please extend my sincere thanks to Christine
2 Riehl and Kristen O'Rourke for getting back to me with
3 good information about the pump station and dealing
4 with the issue in real time. I was unable to find
5 their new email address on the new website. While
6 flooding is a continual occurrence here in town, I
7 found it interesting that the County sets the
8 parameters for the activation of the pump much like
9 every present pothole puddle near McDonald's parking
10 lot entrance. (Indiscernible) finally found it's way
11 back up and raw sewage was the real problem. So for
12 the last 20 years every (indiscernible). So glad that
13 was resolved. So I just want to say thank you so much
14 to everyone and for your quick response."

15 And I just wanted you to all know that.
16 So thank you. Thank you for letting me have that time.

17 MAYOR KANITRA: Great. Okay.

18 COUNCILMAN VITALE: Mayor, can I say
19 one thing that I failed to mention in my Committee
20 Report?

21 I alluded to the conversation I had
22 with the diving group -- and this is really to the
23 Beach Ordinance. I'm hoping that we can add them in as
24 -- as people that are allowed on the beaches after
25 hours and allow for navigating the lateral shoreline so

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1 no stopping or standing, but navigating the -- the
2 shoreline.

3 MAYOR KANITRA: We can ask for an
4 amendment when we bring -- when we bring it up, I
5 think.

6 COUNCILMAN VITALE: Okay.

7 MAYOR KANITRA: Okay. Perfect.

8 Okay. So that's it. We're going to
9 move to -- to the first public participation.

10 Councilman Vitale, if you can unmute
11 everybody, and we'll ask everybody to turn off your
12 TV's, turn off your background noise and -- and then be
13 orderly when you speak. And, again, because we have a
14 lot of people to -- to get through tonight, and we know
15 everybody's passionate, we are going to enforce the
16 three-minute rule tonight. And I'm going to look at
17 the clock, and I am going to do my best to,
18 unfortunately, cut you off. Whether you're pro or anti
19 or whatever stance you have, we're going to -- we're
20 going to, unfortunately, have to cut you off at three
21 minutes tonight.

22 So, Councilman Vitale, go ahead.

23 COUNCILMAN VITALE: And, remember, I
24 can't unmute every -- everybody, so if you want to
25 talk, you'll have to unmute yourself. And it's star

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1 six on the landline.

2 MAYOR KANITRA: Star six if you're on a
3 landline or just hit unmute on your video. We're ready
4 to go.

5 MR. TOOHEY: So how do we jump in?
6 Tom Toohey, 114 Niblick.

7 MS. FARRELL: Excuse me, Mayor. Can I
8 please add what needs to be added to the agenda?

9 MAYOR KANITRA: Yes.

10 MS. FARRELL: Okay. Item 3q) is going
11 to be approval of the painting of the right turn on
12 Arnold and River Avenue for \$250.

13 And 3r) is going to be authorization to
14 move forward with the irrigation quote, the more cost-
15 effective quote, pending review by the Administrator
16 that it is the same caliber as the other quote.

17 Since the agenda was originally posted,
18 there were a couple of changes.

19 Item 2f), appointing Robert LePore as
20 the judge in the Municipal Court. And I did send you
21 an updated resolution with salary, et cetera.

22 Let's see.

23 And Ordinance 2020-11, 2020-12 and
24 2012-15 were amended today, and the amendments are on
25 the website. They can be accessed via the links on the

T. Toohey

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1 agenda page.

2 MAYOR KANITRA: Okay.

3 MS. FARRELL: That's it.

4 MAYOR KANITRA: Fantastic.

5 I'm sorry, as every Council Meeting,
6 for cutting you off.

7 And, as a courtesy, we're going to go
8 first to Councilman Tom Toohey, who clearly is
9 (indiscernible) and flexing for us in his tank top.

10 MR. TOOHEY: We don't do air-
11 conditioning in our house.

12 So thank you for letting me go first,
13 Paul. I think the item I want to bring up is going to
14 get a lot of discussion so I just kind of want to talk
15 and get out of the way.

16 I want to thank the governing body
17 tonight for tabling the Skate Park Ordinance. I'm
18 going to do my best -- I had a conversation with the
19 Mayor a few weeks back about serving as liaison of the
20 project. I'm going to do my best to mitigate any blow-
21 back, although I really don't anticipate any from the
22 skateboard community. I think everybody really wants
23 to get it right So that's all I wanted to say.

24 Thank you.

25 Please -- everybody has my contact

T. Toohey/M. Castellano

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1 information -- involve me in those conversations when
2 they happen if -- if you see fit.

3 And the other thing I just want to
4 throw in and this isn't -- this isn't picking on
5 anybody, but it's really coming from a place of a
6 mistake that I made as a newly-elected official. I
7 don't remember who it was, but during a committee
8 report somebody talked about how Maser is -- is great
9 at returning phone calls. They will. They always
10 will. And they'll talk to you forever because
11 everybody on this call is paying for it.
12 I found that 95 percent of the questions I -- I had
13 could be answered by the Borough Administrator. But
14 that's not to pick on anybody. It's -- it's a mistake
15 that I made, and I just wanted to throw my experience
16 out there.

17 Thank you and -- and good luck, guys.

18 MAYOR KANITRA: Thank you, Councilman.

19 MS. FARRELL: Tom Toohey.

20 MR. CASTELLANO: Hey, this is Mike
21 Castellano, Chair of the Surf Rider Foundation, Jersey
22 Shore Chapter.

23 I just wanted to first thank you guys
24 for speaking with our legislative liaison, Joe, on the
25 access issue. And, you know, seeing that this is

M. Castellano

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1 privately-owned land versus -- versus public land, you
2 know, we are a lot more understanding, and, you know,
3 we completely sympathize with you guys regarding the
4 behavior of people who are, you know, on the beach
5 during the night and at night.

6 You know, conducting beach cleanups
7 throughout the entire year, I get to see it every day
8 just how bad the problem is, and I can only imagine
9 what you guys are going through. So, again, we
10 completely understand and, you know, are very
11 appreciative of how willing you guys are to, you know,
12 amend what can be amended, extend what can be extended.

13 But the two things that were actually
14 just brought up and the two things that I -- I thought
15 were -- were very important to -- to be amended were --
16 were the divers, adding divers to that list along with
17 surfers and fishermen, and then that lateral access.
18 That, out of everything for me, is the biggest thing.
19 Just because like one of the -- one of the attributes
20 of living at the Jersey Shore is walking the high-tide
21 line at night. I mean, I do it every single night. I
22 live in Asbury Park. I go down to the beach at sunset.
23 I walk the beach. I'm not down there throwing a
24 blanket out. I'm not down there with a bunch of beers
25 or food. I take my nightly stroll. I get off and I go

M. Castellano

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1 home. So if that could be added strictly --

2 MAYOR KANITRA: Mike, you cut out right
3 after you said "if that could be added."

4 COUNCILMAN CORTES: Houston, we have a
5 problem.

6 MAYOR KANITRA: I can hear Councilman
7 Cortes so I assume everybody --

8 COUNCILMAN VITALE: Mike's still signed
9 in, but I don't see his microphone going.

10 MAYOR KANITRA: I think we got the gist
11 of what he said. He ended by asking if that could be
12 added and -- and, you know, I think that that's --
13 that's very reasonable. And I appreciate Surf Rider
14 and the other beach access groups working with us and
15 understanding, you know, the predicament and the
16 situation that we're in here. You know, Point Pleasant
17 Beach is a surfing town. We've always been a surfing
18 town. And --and I certainly want to make sure that
19 everybody feels comfortable with that, that we're not
20 going to be messing with the -- with the fabric of the,
21 you know, the community there.

22 So, Mike, if -- if you come back on or
23 you hear us or if anybody else knows Mike, just let him
24 know that we heard him loud and clear, but we're going
25 to move on to the next person because I think his feed

M. Castellano/V. Castin

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1 went out.

2 MR. CASTELLANO: Thank you, guys, very
3 much. I really appreciate it.

4 MAYOR KANITRA: Oh, perfect. There you
5 are, Mike. Okay.

6 MR. CASTELLANO: Yeah.

7 MAYOR KANITRA: Great.

8 Thank you.

9 MR. CASTELLANO: Thank you, guys. Have
10 a good night.

11 MR. CASTIN: I'm next.

12 MAYOR KANITRA: Okay. Go ahead.

13 MR. CASTIN: Okay. Just a couple of
14 things. I won't -- I won't --

15 COUNCILMAN CORTES: Name and address,
16 please.

17 MAYOR KANITRA: Mr. Castin, what's your
18 address.

19 MR. CASTIN: Vince Castin, 15 Trenton
20 in Point Pleasant Beach, Borough of Point Pleasant
21 Beach, actually.

22 First of all, how come we only get
23 three minutes and all those other people talking got,
24 like, 15? It's past my bedtime here.

25 Okay. On -- on 2u), it looks like, the

V. Castin

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1 Bureau of Housing will give money to us so we can
2 inspect multiple dwellings. What -- what's that? Can
3 you explain that to me?

4 MS. RIEHL: Yes.

5 MR. CASTIN: Go ahead.

6 MS. RIEHL: We do all the inspections
7 on multiple housing dwellings for the State of New
8 Jersey, and then they compensate us for that. We've
9 been doing this for, ooh, 25, 30 years.

10 MR. CASTIN: Oh, okay. I guess I
11 didn't -- okay.

12 MS. RIEHL: Yep, we do it every year.

13 MR. CASTIN: Okay. Just a couple of
14 things real quickly.

15 I -- I do agree with Andy and Mr.
16 Santanello on just about 95 percent of all the issues
17 regarding the trees and the code enforcement thereof
18 and also the changes by -- by our Mayor. I -- I think
19 -- I think everybody's on the right -- right page with
20 that. So I -- I think those are some good changes.

21 I also agree with the opening of the
22 park until September. I think that's a -- that's a
23 good idea.

24 And, Paul, I think you mentioned the
25 windmill thing. I -- I'm 1,000 percent behind you on

V. Castin

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1 the -- the -- no windmills out there. There's a thing
2 a lot of people don't know is that they -- they also
3 have to run electricity from the windmills to the shore
4 because there's not always enough wind to propel them.
5 So, as a result of that, they have to use alternate
6 power to run the windmill. And it's kind of an
7 oxymoron there. You got a windmill that needs
8 electricity. So I'm totally against -- against
9 windmills on the shore.

10 Oh, by the way, on Silver Lake, I saw
11 the guys -- guys? -- guys and girls out there cleaning
12 up, and I appreciate that having lived on the lake for
13 a while. And I think they do a -- they do a heck of a
14 job out there, you know.

15 And I think that's -- oh, the one
16 thing, maybe -- Andy, maybe you can take a look at
17 this. When you go up on Inlet Drive, where it starts,
18 right at the end of Ocean Avenue there --

19 COUNCILMAN CORTES: Right.

20 MR. CASTIN: -- there's a parking lot
21 there. I ride my bike through there. And right by
22 those condos, there's a fence. It's about 2-1/2, 3
23 feet high and it's got, like, spears on it. It's
24 really short to have that type of finish on it. It's
25 not the Coast Guard fence where it's, like, ten feet

V. Castin

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1 tall and it's protected. I don't know. It looks to me
2 -- it looks kind of hazardous there. I don't know if
3 there's any -- any regulation about that. You know
4 what I'm talking about?

5 MAYOR KANITRA: You talking about the
6 new one?

7 MR. CASTIN: There's a brick fence.
8 It's maybe three feet tall. Going up Inlet Drive, it's
9 on the right-hand side just before you make the turn.
10 There's a fence, a short fence there with -- just
11 before you turn into the condos there.

12 COUNCILMAN CORTES: I think I know
13 where you are. I'll look at it tomorrow.

14 MR. CASTIN: Yeah. It just seemed a
15 little hazardous. I mean, if someone falls off a bike,
16 speaking of me, they'd be impaled there for a while and
17 nobody would know it.

18 Okay. So that's -- that's kind of it,
19 and keep up the good work, guys.

20 Oh, Mr. Mayor, I can talk to you later
21 or quickly about the -- I left a message on your phone
22 regarding the Coast Guard Station versus the museum.

23 MAYOR KANITRA: Yep.

24 MR. CASTIN: They -- I had a -- I left
25 a message with Chris Smith also in that regard and also

V. Castin

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1 I spoke to the association down here. This has been in
2 the works for a while and nothing seems to be
3 happening. I thought maybe you could use your
4 expertise in D.C. to maybe talk to someone down there.
5 There's so many different groups there.

6 MAYOR KANITRA: When I went to D.C. to
7 meet with Congressman Smith it was mentioned that we
8 would get together at the end of August. We were going
9 to do that in person. Obviously, that's unrealistic
10 now. But I will -- I will follow up with them in
11 August and -- and we'll go from there.

12 So thank you, Vince, and we'll talk to
13 you in a little bit.

14 MR. CASTIN: Okay. Thanks a lot.

15 COUNCILMAN CORTES: Mayor. Mayor.

16 MAYOR KANITRA: Yep.

17 COUNCILMAN CORTES: Real quick.

18 I believe a year ago April, Governor
19 Murphy was on the boardwalk and signed some kind of
20 legislation against any utility -- I don't know the
21 word. Maybe you can have Kristen O'Rourke look this
22 up. Against any utility coming out into state, you
23 know, state waters, you know, riparian rights.

24 MAYOR KANITRA: So these are federal
25 DOEM leases. So the federal waters start about 15

M. Windrem

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1 miles off.

2 COUNCILMAN CORTES: Right.

3 MAYOR KANITRA: Right. So this is not
4 in state waters. It's a federal lease but --

5 COUNCILMAN CORTES: Right. But I'm
6 saying, just like Vince Castin had said, electricity
7 has to get out there. Well, this might come under
8 whatever the Governor signed that's not allowed. You
9 know, that's why we can't have gas, oil. You have to
10 get a way to get stuff back onshore. So maybe double
11 -- it was a year ago in April I believe that he was
12 down on our boardwalk.

13 MAYOR KANITRA: Well, we just -- we
14 just -- what we just objected to was actually the State
15 -- the State was allowing sediment testing for the
16 laying of these cables. And that's what we objected
17 to. But we'll look into it. It's a good point,
18 Councilman.

19 COUNCILMAN CORTES: Okay.

20 MAYOR KANITRA: I believe Margaret
21 Windrem was next?

22 MS. WINDREM: Margaret Windrem, 133
23 Broadway.

24 Thank you, everybody, for your time
25 tonight.

M. Windrem

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1 And I just wanted to say that I agree
2 with the statement that was read by the Chief tonight
3 in the committee report. I think that the continuation
4 of strong and strict enforcement is really necessary.
5 I live on the north end of the boardwalk, and starting
6 before the summer I was -- dogs, smoking, drinking. To
7 be fair, some of the drinking is unintentional.
8 Sometimes people leave a north end bar and don't
9 realize they're not supposed to bring a drink with
10 them. But drinking.

11 Very blatant pot smoking. I've been
12 seeing that over the last couple of years. We've been
13 seeing more and more pot smoking. But the smoking this
14 year is -- it's just -- it's unbelievable.

15 Littering, a lot of littering. Some of
16 it's just not on the boardwalk. Ocean Avenue, the
17 parking lot is full of litter.

18 The loud, thumping music, it is
19 unbelievable. Groups of kids walking by, big speakers
20 being pulled down. We all went from big -- remember
21 boom boxes back in the -- you know, decades ago, and
22 then everybody got these little, tiny Bose.
23 Everybody's pulling a speak now on wheels. It's
24 unbelievable.

25 Language that would make a sailor

M. Windrem

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1 blush. I have been told to, quote/unquote, "f" off in
2 ways that you can't even begin to imagine, mostly,
3 again, by teenagers.

4 You know, I'm hoping it's a strange
5 year, but the behavior on the boardwalk has been
6 alarming, and it's out-of-towners. You know, some of
7 this behavior, a lot of the pot smoking, is out-of-town
8 people. But I know there are also a lot of local
9 teenagers who are up here causing a lot of havoc.

10 I will say since we've gotten more
11 police force in mid-June, it has gotten better. There
12 are a lot of police up here. Chief Michigan is very
13 aware of what's going on up here. He's paying
14 attention to it. And I know every neighborhood has its
15 issues, so this is an issue that I see outside my
16 window.

17 So I just want to ask for the Council
18 and the Mayor to continue to support Chief Michigan and
19 his officers to continue to strictly enforce this
20 because it's been a neigh -- it's been a summer that
21 made me think, you know, kind of what am I doing up
22 here.

23 And just because DPW was brought up in
24 a couple of the committee reports, I just wanted to say
25 that anytime I've had any dealings with DPW and/or the

M. Windrem/E.J. Geiger

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1 water department, which I've had a number of instances
2 to deal with this year, the employees are always
3 extraordinarily pleasant and very helpful. And I'm
4 just throwing that in as an aside to the conversation
5 about the behavior up here on the boardwalk because
6 they were brought up today. And I wanted to give a
7 shout out to them because they're always, always
8 extremely helpful.

9 I thank you.

10 COUNCILMAN CORTES: I'll pass that
11 along to Mr. Trout.

12 MAYOR KANITRA: Thank you very much.

13 Okay. Who's next.

14 MR. GEIGER: E.J. Geiger, 115 Arnold.

15 MAYOR KANITRA: Hey, E.J. How are you?

16 MR. GEIGER: Hey. Good.

17 I just want to check -- talking about
18 the speakers on the boardwalk, how far down, if they do
19 that, are they going to extend them? Like, are they
20 going to go into the residential section or just keep
21 it in the business section? Because I'm sure people
22 down in the residential section don't want to hear, you
23 know, the same statements going off --

24 MAYOR KANITRA: That's a good --

25 MR. GEIGER: -- every 15 minutes.

E.J. Geiger

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1 MAYOR KANITRA: That's a good point. I
2 think we would have to position them so that they
3 weren't intrusive. Since we're passing -- we're
4 possibly passing a noise ordinance, we don't want to do
5 anything that residents are going to hear from their --
6 their decks all summer.

7 So, Christine, when we figure out that
8 spacing, if we do do the whole thing, can we just make
9 sure that they're not in the residential areas, or if
10 they are there, they're so low that you wouldn't even
11 hear them on your deck.

12 MS. RIEHL: Right. So what we're doing
13 now is getting a quote to see what it might cost to
14 extend it throughout the boardwalk. It's certainly up
15 to the governing body to decide where and if they want
16 to install them.

17 MR. GEIGER: Okay. And that would tie
18 into the last speaker's comments about the noise.

19 Looking at the Beach Ordinance, I would
20 love to see the dog hours extended a couple of hours.
21 You know, 3 p.m., as somebody said earlier, you know,
22 those of us that work until 5 p.m., that kind of cuts
23 us out of getting up there. So maybe they could make
24 that six o'clock. To be able to take the dogs up there
25 on a leash would be great.

E.J. Geiger/K. Hennessy

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1 And I notice there was something about
2 the drones, no drones.

3 MAYOR KANITRA: We already -- that's
4 redundant too. We already have a No Drone Ordinance.

5 MR. GEIGER: Okay. I just saw it on
6 there, and I just wanted, you know, to check to make
7 sure that it wouldn't affect, you know -- because it
8 does say just drones, it wouldn't affect any law
9 enforcement or journalism or anything else like that
10 that needs to operate up -- up there.

11 MAYOR KANITRA: Okay. I don't think it
12 will. I think we allow -- yeah, we allow commercial
13 uses.

14 MR. RIORDAN: Yeah.

15 MAYOR KANITRA: We allow permits. We
16 allow, you know, realtors.

17 MR. GEIGER: Okay. I just wanted to
18 see if we needed a permit or whatever.

19 That's all.

20 MAYOR KANITRA: Thank you, E.J.

21 MR. GEIGER: All right. Cool.

22 Thanks a lot, guys. Have a good night.

23 COUNCILWOMAN TESTA: Thank you, E.J.

24 MS. HENNESSY: May I have an
25 opportunity to speak, Mayor? This is Kristin Hennessy.

K. Hennessy

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1 MAYOR KANITRA: Miss Hennessy, sure, go
2 ahead.

3 MS. HENNESSY: Yes. Kristin Hennessy,
4 New Jersey Avenue.

5 Can you hear me okay?

6 MAYOR KANITRA: We can hear you loud
7 and clear.

8 MS. HENNESSY: Okay. I want to first
9 respond to something that Councilman Vitale said in his
10 committee report, and that is the cancellation of the
11 townwide recreation program, otherwise known as the
12 Park Program.

13 While I recognize that this was
14 probably an extremely difficult decision for the
15 Recreation Committee to make, I feel that it's
16 important to just state that I think it's absolutely
17 disgraceful that this counselor that was hired, you
18 know, was so irresponsible to -- to show up to work
19 knowing that she had had this -- this test for COVID,
20 suspecting that she had the virus and the negative
21 impact that that has had on a hundred plus kids in the
22 town.

23 With the stress and the emotional
24 strain and anxiety that these kids in our town have
25 been under since the middle of March, I just can't even

K. Hennessy

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1 believe that someone would be so stupid. And I hope
2 that that person is going to be punished or prosecuted.
3 She's over the age of 18, and I don't know what can be
4 done.

5 But, furthermore, I was disappointed to
6 hear that the Recreation Committee made the difficult
7 decision. I know there were certain (indiscernible)
8 sent out to the parents, but, again, I think that --
9 you know, Manasquan had an outbreak. There were 30 to
10 40 young high school, young college people that tested
11 positive for the Coronavirus. They took a week off,
12 reevaluated and then reinstated their recreation
13 programs.

14 (Indiscernible) since March have
15 nothing but recreation and maybe Little League. And to
16 just flat out cancel the program the way you did after
17 one week, it really disappointed a lot of kids who I
18 know and particularly my three nephews. To use the
19 word "devastated" would -- would not be too strong of a
20 word.

21 So I'm disappointed that the Recreation
22 Committee didn't go in a different direction with that
23 decision and didn't give that a little bit more careful
24 thought to how that decision might adversely affect
25 kids that are already struggling with the quarantine

K. Hennessy

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1 and the pandemic.

2 The only thing I'd like to say is
3 directed at the Mayor.

4 And, Mayor Kanitra, I just want to say
5 to you that I think -- I listened to your -- your
6 Mayor's Report, and, you know, everything you said was
7 right on the money.

8 And here's the bottom line. We need
9 rules to -- to maintain the integrity of our town and
10 to preserve the family-oriented town that we've always
11 been that many people moved here for, that many people
12 like myself choose to stay in town for. We need to set
13 the character and the tone of our community, and to do
14 that means we need rules. And I'm disappointed in a
15 few Council Members that kind of want to take the
16 position that anything goes, whether it's cutting down
17 trees or it's allowing anything goes on the beach and
18 the boardwalk or just whittling down the rules at the
19 skateboard park. We need rules. We need strict
20 enforcement and we need strict rules.

21 Someone, I think it was, Borough
22 Attorney Mr. Riordan, talked about the ordinance for
23 the beach and boardwalk preservation being modeled
24 after Spring Lake. And I think that's exactly what we
25 need to do. I think we need to look at communities

K. Hennessy

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1 near us that we love and admire and see what they're
2 doing to keep their towns great and model after what
3 kind of ordinances they have.

4 I mean, you know, you're -- you're --
5 you're arguing -- some of you are arguing over the size
6 of a cooler, you know, in terms of inches. Someone
7 told me, as recently as yesterday, you're not even
8 allowed to bring food and beverages onto the beach in
9 Bay Head. Now, I don't know if that's true.

10 MAYOR KANITRA: I apologize real
11 quickly. I believe -- I -- I just want to be fair with
12 everybody. I believe you can talk about that when we
13 get to the ordinances too.

14 MS. HENNESSY: I just want to make a
15 blanket statement and say that I really do think that
16 we need strict rules to preserve our charm as a
17 community. And I think, Mayor, you and especially,
18 Councilwoman Testa and Councilman Vitale and
19 Councilwoman Byrnes -- I don't want to leave anybody
20 out, but you guys seem to really be on the right track
21 and -- and I support you 100 percent.

22 Thank you. That's all I have to say.

23 MAYOR KANITRA: Thank you so much.

24 Sorry for cutting you off.

25 MS. HENNESSY: That's okay.

B. Esrig

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1 MAYOR KANITRA: Okay. Who's next?

2 MR. CAVAGNARO: Dave Cavagnaro.

3 MR. ESRIG: (Indiscernible)

4 MR. CAVAGNARO: Oh, sorry.

5 MAYOR KANITRA: Dave.

6 MR. ESRIG: Dave, are you going to go
7 or am I going to go?

8 MR. CAVAGNARO: You can go.

9 MR. ESRIG: Okay. Hi.

10 This is Burt Esrig, 1311 Oceanfront,
11 Point Pleasant Beach.

12 MAYOR KANITRA: Hey, Burt.

13 MR. ESRIG: Hey.

14 I live and I'm one of the owners of
15 Bradshaws Beach. Bradshaws Beach is owned by Bradshaws
16 Beach LLC, and there's a beach committee of three
17 members of that company that run the day-to-day beach
18 operations. And we have contracted AquaServe, who also
19 runs the Maryland Avenue Beach, to run the day-to-day
20 operations of Bradshaws Beach. There's a Facebook page
21 for Bradshaws Beach and AquaServe has a website.

22 I have spoken to some of the members of
23 Bradshaws Beach and I've spoken to the head of
24 AquaServe, and we applaud your efforts on cracking down
25 on some of the very bad behavior in the town and

B. Esrig

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1 particularly on the beaches.

2 However, we haven't been contacted to
3 discuss this proposed ordinance and how it might
4 operate in practice. And both Bradshaws Beach
5 representatives and AquaServe would like to volunteer
6 to identify potential operational problems created by
7 some of the items in the ordinance that we who run a
8 beach day to day might know and to also generate
9 procedures as to who does what on a day-to-day basis
10 and to identify any equipment, gates or anything else
11 we might need to purchase or install to affect what we
12 need to affect.

13 As an example, are we going to put
14 gates up? Who's going to lock them? Who's going to
15 open them? When the time comes to clear the beach,
16 what do we do if we have problems? We had -- we have
17 problems almost all the time when we want to close the
18 beach. What are we going to do with Thursday night
19 fireworks that go off at 9:30 and every, you know,
20 resident in town is used to going there?

21 What does operating mean? We have
22 lifeguards there till four o'clock. Does operating
23 mean we have to have lifeguards?

24 What happens with the -- the private
25 homes that are adjacent to us? What is our

B. Esrig

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1 responsibility in checking things? In other words, if
2 we perform certain procedures and somebody hides a
3 joint and winds up on our beach are we liable. Or once
4 you approve our procedures and we do them is that
5 sufficient to protect us?

6 So I can go on and on, but we'd like to
7 volunteer to work with you, Mayor, the Council, the
8 Borough Administrator and anybody else you'd like to
9 make sure that this gets off to the right start and
10 really becomes affective.

11 MAYOR KANITRA: Well, Burt, I -- I
12 appreciate that tremendously and -- and I'd offered you
13 a couple of different things. As -- as you know, you
14 know, you have legislation and then you have the rule-
15 making once -- once it's been passed and the
16 implementation of the procedures and everything along
17 those lines.

18 So depending on what happens with the
19 Beach and Boardwalk Ordinance, we'd -- we'd be happy to
20 meet with you and to meet with other stakeholders that
21 would be affected and talk through, you know, how we're
22 planning on enforcing it and hear your thoughts on
23 everything. You know, work with the realities of that.
24 And I believe that a conversation with the Borough
25 Attorney would be very fruitful as well. And what I

B. Esrig/D. Cavagnaro

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1 would suggest, depending on how this goes tonight, is
2 that we set up those meetings not only just for
3 Bradshaws but for other operators as well in the
4 intervening time, preferably next week I would say so
5 that we have enough time to talk through everything and
6 -- and be there for a potential second reading.

7 MR. ESRIG: Great. Look forward to
8 working with everyone.

9 MAYOR KANITRA: Thank you so much,
10 Burt. Appreciate it.

11 COUNCILWOMAN TESTA: Thank you, Burt.

12 MR. ESRIG: Thanks.

13 MAYOR KANITRA: Okay. I'm sorry. Now
14 it's -- it's Dave Cavagnaro.

15 MR. CAVAGNARO: Good evening.

16 Dave Cavagnaro, 118 Parkway.

17 I'll start with the Beach Ordinance
18 since that was just mentioned. I appreciate your
19 concerns and your dedication for what you're trying to
20 do. My sticking point is that for the sake of public
21 safety you are again tampering with people's private
22 property rights. And this owner just indicated what my
23 big concern would be. Before an ordinance like this
24 comes to the table, why wasn't there a sit-down meeting
25 with all the beach owners first to see what their input

D. Cavagnaro

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1 would be before the ordinance even comes to the table?
2 It shouldn't be introduced first and then let's sit
3 down and talk to the people with their problems or
4 issues.

5 So I don't take up to much time, on the
6 Tree Shade Ordinance, I understand that there was a
7 revision. Last time I checked was sometime around mid-
8 afternoon and I didn't see the new version. When did
9 the new version hit the agenda?

10 MAYOR KANITRA: I believe around 11
11 a.m. And, again, it was numerical. It was moving --
12 moving the diameter from four inches to six inches if
13 it's in the (indiscernible) and 12 if it's in the
14 footprint and taking up the (indiscernible).

15 MR. CAVAGNARO: Okay. And, again, when
16 ordinances are changed, the public doesn't have any way
17 of knowing that at the last minute they should go back
18 and check an agenda for something like that. So that,
19 to me, I think is a problem.

20 I respect some people are passionate
21 about trees. The tree-lined streets I think are nice.
22 We have an ordinance that already addresses that. This
23 is an ordinance that is now again going to selectively
24 attack private property rights, not for all property
25 owners but just some which to me makes it a little

D. Cavagnaro/A. Lightburn

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1 discriminatory. The number of homes east of the tracks
2 that are below flood elevation that in time are going
3 to have to be either removed or raised, they're going
4 to be affected by this ordinance, which is going to
5 affect this property values also.

6 I think trees are important, but they
7 shouldn't be more important than people's private
8 property rights. And this ordinance doesn't just make
9 a tree important. It makes it the most important. It
10 is the first step before anyone can do anything to try
11 and improve their property, and I think that's the
12 wrong priority of where a tree should be. However,
13 that's my opinion.

14 Thank you very much.

15 MAYOR KANITRA: Thank you very much,
16 Councilman.

17 Who's next?

18 MS. LIGHTBURN: Hi.

19 Anne Lightburn.

20 MAYOR KANITRA: Hi, Anne. How are you?

21 MS. LIGHTBURN: Oh, I'm pretty good.

22 Fascinating meeting.

23 I'm -- I do want to talk about the Tree
24 Ordinance, but I'd also like to talk a little bit about
25 the Beach Ordinance because I know myself, as well as a

A. Lightburn

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1 lot of people, come down after hours to go in the
2 water. So I would like permission along with the
3 surfboarding. I think that somebody should be allowed
4 to walk into the water if they so choose at their own
5 risk.

6 MAYOR KANITRA: I think that will be
7 addressed with the lateral. I think that would be
8 addressed with the lateral --

9 MS. LIGHTBURN: Okay.

10 MAYOR KANITRA: -- issue.

11 MS. LIGHTBURN: All right. Going to --
12 to the Shade Tree Ordinance, it's not really a Shade
13 Tree Ordinance. It's a tree protection ordinance. And
14 I would hope that this Council would vote yes on that
15 ordinance. And really what we want to do is protect
16 the trees from needless cutting when there is new
17 construction or a developer takes over a property and
18 just clears it out.

19 Now, as you've mentioned, Paul, you
20 changed it. You made it very clear that the trees that
21 we're really trying to protect are six inches or more
22 in diameter which is a big tree. And these are the
23 perimeter trees. These are trees that a
24 (indiscernible) ordinance would not impact the
25 construction of the home or a pool or anything else.

A. Lightburn

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1 And, you know, going back to what
2 Kristin said, ordinances are important because
3 ordinances are about the aesthetics of our town, how it
4 looks, how it feels and its future. It's also about
5 behavior too.

6 And to talk to what Dave was saying,
7 there's always a delicate balance between the community
8 interests and their goals as well as property rights.
9 And also this ordinance addresses the rights to
10 adjacent property owners of not having tree cutting
11 going on around them.

12 And we have so many building codes and
13 ordinances, including the height of fences and how tall
14 your grass is, and trees should be no less important
15 than those issues.

16 And I know the Council has read this
17 already, and I hope that you appreciate one of the more
18 important things, the flexibility built into this
19 ordinance. The developers or property owners who want
20 a treeless lot, they can have it. This ordinance does
21 not cause anyone to have a tree on their property if
22 they so choose. But it is -- it does provide for a fee
23 to have that treeless lot.

24 So the intent of this whole ordinance
25 is just to discourage the unnecessary removal of mature

A. Lightburn

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1 perimeter trees only. And we're just here to ensure
2 that these trees are either replaced or that they're
3 going to be replaced somewhere else in town.

4 Trees are important to the aesthetics
5 of our town and the environment. So I'm asking each
6 Councilperson to vote yes. This is really too
7 important with the increase of knock-downs that we've
8 seen and the new construction of, you know, what is
9 primarily a second home. So I would appreciate a yes
10 vote.

11 Thank you.

12 MAYOR KANITRA: Anne, I want to give
13 you this -- one more minute with a question that I have
14 for you. I was -- I had someone reach out to me that
15 had a very unique situation. It's a gentleman who owns
16 a couple lots together, had gotten them approved as a
17 subdivision. And I guess they went through a process
18 with you all where they -- they gave a conservation
19 area to you, like, a hundred foot conservation area for
20 trees on Baltimore Avenue. They granted, like, a
21 conservation area or something like that. Would you be
22 okay -- and you seem shocked like you don't know about
23 it. But would you be okay, if that was the case -- and
24 maybe this was done a long time ago -- about
25 grandfathering anybody that, you know, sets -- you

A. Lightburn

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1 know, sets apart a conservation area or something like
2 that because then it would be redundant?

3 MS. LIGHTBURN: Well, the property
4 owner -- the way the ordinance reads now, I don't know
5 if it would be redundant. But without knowing all the
6 details this would be my impression. If this
7 individual was subdividing a property and he's talking
8 about dedicating a strip for trees out of his --
9 carving out a strip for trees -- is that what he's
10 talking about?

11 MAYOR KANITRA: I totally just stepped
12 on Councilwoman Byrnes because he reached out to her as
13 well, right?

14 COUNCILWOMAN BYRNES: Yes, he did. We
15 had a lot of dialogue on this.

16 The property in question is 307
17 Baltimore, Anne. It's 302 Chicago and 302A Chicago.
18 So I guess during the subdivision proceedings, the
19 Shade Tree Committee asked and received a conditional
20 approval if he created a --

21 MR. RIORDAN: Let me -- let me
22 interrupt, folks.

23 If what the resident said turns out to
24 be accurate, he can petition the governing body to
25 waive the fees. That's the way to handle it. It

K. Stillufsen

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1 shouldn't be discussed now. It's not part of the
2 ordinance.

3 MAYOR KANITRA: Perfect. Okay. Thank
4 you.

5 Thank you, everybody.

6 Thank you, Anne.

7 Is anybody else next?

8 MS. STILLUFSEN: Mayor.

9 MAYOR KANITRA: I see Louise
10 Stillufsen.

11 MS. STILLUFSEN: It's actually Kitty.

12 MAYOR KANITRA: Oh, hey, Kitty. How
13 are you?

14 MS. STILLUFSEN: Is the timer started?

15 MAYOR KANITRA: You're good. Three
16 minutes.

17 MS. STILLUFSEN: Okay. Okay. Thank
18 you.

19 I really just want to kind of echo a
20 lot of what Chairwoman Anne Lightburn just said about
21 the Tree Ordinance. I'm very much in favor of the
22 proposed tree ordinance. I was the Chairwoman of the
23 Shade Tree Commission for eight years, and I can tell
24 you this, the Shade Tree group, they get a lot of
25 training. I don't know if everybody knows that.

K. Stillufsen

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1 They're a commission. They're not a committee. And
2 they work very closely with the tree experts, a group
3 of highly-credentialed persons, and this has been,
4 like, on the -- in their minds for a very long time.

5 I can tell you on my street, River
6 Avenue, there is a home that went in, and it's a
7 beautiful, brand-new construction, clear-cut lot. I
8 mean, what a tragedy. If you've ever had to try to
9 plant a tree yourself, you would appreciate the value
10 of these trees. This proposed ordinance is -- it's
11 like a crumb in terms of environmental protection.
12 It's truly the very least we can do for ecology.

13 As for infringement on private property
14 rights, I say hardly. I mean, just to put it in
15 perspective, it's only healthy trees of a significant
16 size. It's been increased to six inches in diameter
17 just to make way for new construction. And it's the
18 right thing to do. If they're going to take down a
19 mature, healthy tree, that reduces the urban canopy in
20 our community. That affects our air, our water
21 quality, our noise, the aesthetics. The right thing to
22 do is to replant these trees, and it really has to be
23 regulated because over the 20-plus years that I've been
24 working with trees in town, I just have not seen that
25 happen.

K. Stillufsen

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1 And like Mrs. Lightburn said, the new
2 tree doesn't even have to be on the some property. You
3 don't even have to do it yourself. And one other thing
4 that I would like to point out, if you do have to take
5 down a healthy tree for new construction and you don't
6 want it on your property or you want the Shade Tree
7 Commission to do it for you, it's a tax deduction. The
8 amount that they're paying is tax deductible.

9 I think the schedule I saw, if you're
10 going to take down a ten-inch tree in diameter, it's
11 about \$800 to replace that tree. I think I saw the
12 schedule in that ordinance.

13 And as far as, like, if you're going to
14 sell your house, will this, like, possibly cost you the
15 sale of that house? Highly doubtful. The average home
16 in our town is about \$500,000. The cost to remove a
17 tree (indiscernible) have to be there anyway so that
18 cost is moot.

19 Hold on a second.

20 MAYOR KANITRA: Well, Kitty, while
21 you're --

22 MS. STILLUFSEN: Anyway, if -- if
23 you're not going to -- if you're going to have a sale
24 of \$500,000, \$800 to replace a tree, it's highly
25 doubtful that it's going to get in the way of that

K. Stillufsen

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1 sale. I just don't see that as -- as realistic.

2 And then, also, just to speak to again
3 to what Miss -- Mrs. Lightburn said, we have a lot of
4 regulations on private property already and -- and many
5 of them are meant to benefit the community at large.
6 Like, we can't pour oil into our soil because we have
7 to protect our groundwater. We have to keep our air
8 clean by controlling pollu -- automobiles and just,
9 like, having building setbacks. I'm just trying to
10 think of, like, a few examples of things on private
11 property. The car one was not such a good example.

12 But we already have a lot of
13 regulations on private property. This is no different.
14 And trees shouldn't be, like, pooh, poohed off to the
15 side. I mean, they should be, like -- like herald as a
16 very important thing for our planet and mainly for our
17 survival.

18 So, yes, I'm very much in favor of
19 this. I hope the Council passes this. I'm sure that
20 any piece that can be -- I'm sure the Shade Tree
21 Commission would be absolutely open to that just to get
22 something passed.

23 And I feel, like, there's almost, like,
24 a -- like, a fear mongering. This is infringing on our
25 private property. No, it's to benefit our community

K. Stillufsen/J. Taurozzi

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1 and our air, our water and everything else so...

2 MAYOR KANITRA: Kitty, I -- I
3 appreciate you taking the time, and we all appreciate
4 your passion and thank you very much.

5 MS. STILLUFSEN: You're welcome.

6 Can I have ten more seconds just to --

7 MAYOR KANITRA: You have ten quick
8 seconds. Go ahead.

9 MS. STILLUFSEN: Yes, I agree with Mrs.
10 Lightburn. I like to go swimming after hours at the
11 beach with no lifeguards. That's, like, my favorite
12 time.

13 Okay. Thank you.

14 MAYOR KANITRA: Thank you very much.

15 I see John Taurozzi. You're next.

16 MR. TAUROZZI: Hey, Mayor and Council.
17 This is John Taurozzi, 509 Delaware
18 Avenue.

19 Regarding the Tree Ordinance, thank you
20 for all your feedback. I am opposed, against the Tree
21 Ordinance, not because I don't like trees. I have
22 plenty of trees on my property that my wife and I have
23 put on our property over the last 30 years. Basically,
24 I agree with Dave regarding personal property rights.
25 An ordinance is not the way for a volunteer committee

J. Taurozzi

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1 to make a statement. I believe a volunteer committee
2 should be educating the town, working with the
3 stakeholders in town, not trying to get an ordinance
4 pushed through because, in my opinion, you're going to
5 be issuing ordinances on what color I'm going to paint
6 my house, what kind of decorations I could put up for
7 the holidays and so forth. And I don't want to belong
8 to a homeowners association, you know, for that matter.
9 I don't need an ordinance to tell me how to maintain my
10 property.

11 Rules are required, but they don't have
12 to be mandated. I mean, we have plenty of rules. You
13 mentioned about having skin in the game. This
14 ordinance has a fee fund that people can opt out and
15 pay a fee. And one of my recommendations I made to the
16 Council was that if we really want to save trees, why
17 don't we help the homeowners maintain trees.
18 Homeowners have a lot of expenses, and now we're asking
19 homeowners to keep trees, maintain trees. It costs a
20 lot of money to prune a tree after 10, 15, 20 years.
21 They cause damage. So if we're going to have this
22 bucket of money out there that's collecting fees, this
23 money should be used besides purchasing new trees in
24 town, we should offset some costs to homeowners. You
25 know, give them a little 10 percent, 15 percent

J. Taurozzi

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1 discount if they come in. If you want to have -- if
2 you really want to support trees, let's all do it with
3 action, like you said, versus having homeowners always
4 foot the bill. I --

5 MAYOR KANITRA: I will --

6 MR. TAUROZZI: My three minutes are up.

7 I have plenty of bills to pay. You
8 also said and Anne Lightburn also said that everything
9 is a small fee. You know, I don't like when other
10 people spend my money. So you really can't say what is
11 a small fee in relation to what a person can do with
12 the money.

13 Next week I'm going to pay my property
14 taxes. I may ask you to pay my property taxes because
15 that's a small fee. You know, maybe the Mayor or the
16 Shade Tree Commission would like to pay my property
17 taxes. So we've got to be very careful about spending
18 other people's money. And I really, strongly believe
19 that an ordinance is just forcing homeowners to spend
20 more money when they don't have to.

21 Thank you.

22 MAYOR KANITRA: John, what I wanted to
23 clarify was with the Shade Tree Ordinance, I think it's
24 very important for everybody listening to understand --
25 and I don't even know if it's been said clearly enough

A. Lightburn

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1 -- but it's for new construction only. You know,
2 obviously, you have your concerns and, you know, I
3 think that we -- we listened to your concerns and we
4 try to tailor things to, you know, what your concerns
5 were. And, again, you know, everybody has their own
6 opinions. I think it's clear that no matter what we
7 change the diameter to, you know, you wouldn't be happy
8 with that, and that's fine. That's totally your right.

9 To the point that you said that maybe
10 some of these fees could be utilized to help
11 homeowners, maybe that might be something the Shade
12 Tree Commission would be interested in, in terms of,
13 you know, giving advice to homeowners and -- and using
14 some of the fees to help offset, you know, some costs
15 or something like that with pruning of trees. I'm sure
16 that they seem pretty open-minded. So maybe we can
17 make yet another concession here. And -- and again in
18 that continued quest to find middle ground, that might
19 be something to add that the Shade Tree Commission
20 could take a look at.

21 Okay. Moving on.

22 MS. LIGHTBURN: Can I chime in for the
23 Shade Tree Commission?

24 MAYOR KANITRA: Yes.

25 MS. LIGHTBURN: There will be if this

A. Lightburn

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1 ordinance passes a tree replacement fund which would be
2 under the, not under the Shade Tree Commission's
3 authority, but under the Council's authority. And it
4 would be their decision whether or not they want to use
5 that fund as something that could also help homeowners
6 on private property.

7 And just to reiterate what you said,
8 Paul, this is only on development lots. It has nothing
9 to do with established homes.

10 Thank you.

11 MAYOR KANITRA: Thank you very much,
12 Anne.

13 MS. LIGHTBURN: Okay.

14 MAYOR KANITRA: Okay. Is there anybody
15 else?

16 Okay. If there's -- if there's nobody
17 else, can I get a motion to close public participation
18 and adopt the consent resolutions?

19 COUNCILMAN CORTES: I'll make a motion
20 to close public and approve Consent Resolutions 1, 2, 3
21 and 4.

22 COUNCILMAN VITALE: I'll second that.

23 MS. FARRELL: Councilman Vitale.

24 COUNCILMAN VITALE: Yes.

25 MS. FARRELL: Councilwoman Testa.

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1 COUNCILWOMAN TESTA: Yes.
2 MS. FARRELL: Councilwoman Byrnes.
3 COUNCILWOMAN BYRNES: Yes.
4 MS. FARRELL: Councilman Cortes.
5 COUNCILMAN CORTES: Yes.
6 MS. FARRELL: Councilman Santanello.
7 COUNCILMAN SANTANELLO: Okay. So I
8 abstain on 4f), 4g), 4h), 4i), 4j), 4l), 4m) and 4o)
9 and yes to everything else.
10 MS. FARRELL: Okay. And you said "m"
11 as in Mary, correct?
12 COUNCILMAN SANTANELLO: Yes. So f) --
13 MS. FARRELL: Okay.
14 COUNCILMAN SANTANELLO: -- g), h), i),
15 j), l), m), o).
16 MS. FARRELL: Okay.
17 Councilman Migut.
18 Councilman Migut.
19 COUNCIL PRESIDENT MIGUT: Hello.
20 I abstain on 4a) as needed, abstain on
21 4d), abstain on 4k).
22 MS. FARRELL: So that was 4a), 4d),
23 4k)?
24 COUNCIL PRESIDENT MIGUT: Yes.
25 MS. FARRELL: Okay. Thank you very

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1 much.

2 MAYOR KANITRA: Okay. Now, we're going
3 to actually move on to the ordinances, right?

4 MS. FARRELL: Yep. Hold on one moment.
5 I'm going to read that.

6 Ordinance 2020-11, An Ordinance Of The
7 Borough Of Point Pleasant Beach, Amending Chapter III,
8 Police Regulations, Of The Revised General Ordinances
9 Of The Borough Of Point Pleasant Beach To Require Tree
10 Removal Permits For Removal Of Trees Related To New
11 Construction.

12 MAYOR KANITRA: Do I need to make a --
13 have a motion or do we open it up?

14 COUNCILMAN CORTES: No, it's first
15 reading.

16 MR. RIORDAN: You don't open it up.
17 This is first reading.

18 COUNCILMAN CORTES: It's introduction
19 only.

20 MAYOR KANITRA: So I don't -- I don't
21 think there's any amendments. Does anybody have any
22 amendments?

23 Okay. Is there a motion?

24 Is there a motion for the Shade Tree
25 Ordinance?

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1 COUNCILMAN VITALE: I'll --
2 COUNCILWOMAN BYRNES: I'll --
3 COUNCILMAN VITALE: -- make that
4 motion.
5 MAYOR KANITRA: Okay.
6 MS. FARRELL: Is that Doug?
7 COUNCILMAN VITALE: Yes.
8 MAYOR KANITRA: And somebody else
9 jumped in too.
10 COUNCILWOMAN BYRNES: Caryn.
11 MAYOR KANITRA: Caryn Byrnes.
12 COUNCILWOMAN BYRNES: Yes.
13 MS. FARRELL: Caryn, you're making the
14 second?
15 COUNCILWOMAN BYRNES: Yes.
16 MS. FARRELL: Okay.
17 Councilman Vitale.
18 COUNCILMAN VITALE: Yes.
19 MS. FARRELL: Councilwoman Testa.
20 COUNCILWOMAN TESTA: (Indiscernible)
21 MS. FARRELL: Is that a yes?
22 COUNCILWOMAN TESTA: That's a no.
23 MS. FARRELL: No, okay.
24 Councilwoman Byrnes.
25 COUNCILWOMAN BYRNES: Yes.

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1 MS. FARRELL: Councilman Cortes.

2 COUNCILMAN CORTES: I do love trees,

3 but I do have an issue with the private property.

4 I'm going to vote no.

5 MS. FARRELL: Councilman Santanello.

6 COUNCILMAN SANTANELLO: No.

7 MS. FARRELL: Councilman Migut.

8 COUNCIL PRESIDENT MIGUT: No.

9 MS. FARRELL: That was a no?

10 COUNCIL PRESIDENT MIGUT: Yes, it was a

11 no.

12 MS. FARRELL: Okay.

13 MAYOR KANITRA: So the motion fails.

14 Ordinance --

15 MS. FARRELL: Okay. So 2000 --

16 Ordinance 2020-12, An Ordinance Of The Borough Of Point

17 Pleasant Beach, Amending Chapter XXI, Beaches, Of The

18 Revised General Ordinances Of The Borough Of Point

19 Pleasant Beach.

20 MAYOR KANITRA: Well, I'd like to ask

21 if there could be a motion to amend that based on what

22 Councilman Vitale had mentioned, Mike from Surf Rider,

23 about diving, about the lateral shore. And I'd like to

24 add one myself if people would be open to it, an

25 exception for Thursday night fireworks. Obviously,

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1 along the boardwalk, I think they can --

2 MR. RIORDAN: Mayor, that's
3 unnecessary. The fireworks are already taken care of.

4 MAYOR KANITRA: Oh, they are? Okay.
5 So people can go on the beach at Maryland or Bradshaws
6 or fur -- further south to Jenkinsons on a Thursday
7 night to --

8 MR. RIORDAN: The language in the
9 ordinance is with the special permission of the owner
10 which was designed with fireworks in mind.

11 MAYOR KANITRA: Oh, perfect. Okay.
12 All right. Great.

13 Then can we -- can I ask for an
14 amendment just for the diving to be added and the
15 lateral shoreline access?

16 COUNCILMAN VITALE: I'll make that
17 motion.

18 COUNCILWOMAN TESTA: I'll second it.

19 MS. FARRELL: Okay. So I have a motion
20 by Councilman Vitale, second by Councilwoman Testa?

21 COUNCILWOMAN TESTA: Yes.

22 MS. FARRELL: Okay. Councilman Vitale.

23 COUNCILMAN VITALE: Yes.

24 MS. FARRELL: Councilwoman Testa.

25 COUNCILWOMAN TESTA: Yes.

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1 MS. FARRELL: Councilwoman Byrnes.

2 COUNCILWOMAN BYRNES: Yes.

3 MS. FARRELL: Councilman Cortes.

4 COUNCILMAN CORTES: I am for a lot of
5 the stuff on this ordinance. I mean, we have to
6 control it. I do have a problem, though, with
7 regulating by, you know, private owners on when they
8 can operate and who they can hire. Other than that I
9 love it.

10 But I'm going to vote no because it's
11 my heart.

12 MS. FARRELL: Councilman Santanello.

13 COUNCILMAN SANTANELLO: No.

14 MS. FARRELL: Councilman Migut.

15 COUNCIL PRESIDENT MIGUT: No.

16 MAYOR KANITRA: My turn?

17 MS. FARRELL: Yes.

18 MAYOR KANITRA: I vote yes.

19 MS. FARRELL: And this is just to amend
20 the ordinance and to pass it as amend -- approve it as
21 amended? Is that correct?

22 MAYOR KANITRA: Correct.

23 MS. FARRELL: Okay. The public hearing
24 on this ordinance will be on August 4th.

25 MAYOR KANITRA: Okay.

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1 MS. FARRELL: Okay. Ordinance 13. One
2 moment.

3 The public hearing will be August 4th.
4 Ordinance 2020-13, An Ordinance Of The
5 Borough Of Point Pleasant Beach, Amending Chapter III,
6 Police Regulations, Subchapter 8, Waste Materials And
7 Collection Of The Revised General Ordinances Of The
8 Borough Of Point Pleasant Beach To Further Regulate The
9 Use Of Bags As Receptacles For Trash Left For Curbside
10 Pick Up.

11 MAYOR KANITRA: Okay. And since we
12 didn't get a chance to talk about this -- again, I
13 mentioned it briefly in -- in my report. Again, what
14 this is meant to do is to cut down on just the bags
15 being thrown out there all by themselves and being torn
16 open by the seagulls. If you have extra trash and you
17 don't have enough that you can fit into your -- your
18 bin, your fine. It just has to go out with the bin at
19 the same time.

20 COUNCILMAN SANTANELLO: Mayor, may I
21 ask you a quick question?

22 MAYOR KANITRA: Okay.

23 COUNCILMAN SANTANELLO: Any way to
24 amend this to five cans? And I'm saying that for a
25 reason, not to be -- to bust chops or anything. A lot

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1 of times --

2 A MALE VOICE: (Indiscernible)

3 MAYOR KANITRA: You have to go on mute.

4 We can hear you.

5 COUNCILMAN SANTANELLO: I don't know if
6 you caught what I said but a lot of times on the
7 weekend I'll pick -- I'll clean the yard, and that'll
8 be three or four cans right there. And I did notice
9 that in this ordinance, there's no way to take garbage,
10 extra garbage to the town dump. Is there any way we
11 can make it five cans? I just know that quite often
12 I've got five cans rather than four.

13 That's okay. I'm not going to vote no,
14 but I'm asking if we can.

15 MAYOR KANITRA: How many -- how many
16 cans is it now?

17 COUNCILMAN SANTANELLO: Four.

18 COUNCILMAN CORTES: Four, whether
19 they're cans or bags.

20 MR. RIORDAN: It's been four for about
21 ten years.

22 COUNCILMAN CORTES: Correct.

23 COUNCILMAN SANTANELLO: I know.

24 MAYOR KANITRA: Look, look, if you want
25 to make a motion, make a motion to add it, but I'm not

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1 -- I don't have an opinion one way or another on it.

2 COUNCILMAN SANTANELLO: All right. So
3 I'll make a motion to switch it to five rather than
4 four plus one bag.

5 MAYOR KANITRA: But wait. Wait, wait.
6 Hold on. I just want to clarify that. Five cans but
7 you can still have a bag. I mean, you know, like, if
8 you really own one can and it's filled up and you add
9 one bag to the side that's still fine.

10 COUNCILMAN SANTANELLO: Yeah.

11 MAYOR KANITRA: Okay.

12 COUNCILMAN SANTANELLO: Anybody want to
13 second it?

14 MR. RIORDAN: At the present time, what
15 the ordinance says, if I might, before -- before these
16 changes, what the present ordinance says is four trash
17 cans or bags. Total is four. It can be bags or trash
18 cans. It doesn't matter.

19 And, Councilman, if I understand what
20 you're suggesting is you would like to make it five
21 bags or cans?

22 COUNCILMAN SANTANELLO: I thought it
23 was receptacles. I thought it was four receptacles
24 plus a bag. Did I misread that?

25 MR. RIORDAN: I believe so, Councilman.

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1 I believe it to be four receptacles, total, any number
2 of which could be bags. The new ordinance says they --
3 that they can be bags but only if there are cans.

4 COUNCILMAN SANTANELLO: I'm a little
5 confused. I really thought, Mayor, that we were
6 looking to (indiscernible).

7 MAYOR KANITRA: Right.

8 COUNCILMAN SANTANELLO: So then it
9 could be five bags. I might be completely
10 misunderstanding this.

11 MAYOR KANITRA: Okay. So let me just
12 make this clear again. Because sometimes people get an
13 extraordinary amount of trash, we wanted to leave the
14 ability for you to say -- let's say I own two trash
15 cans and one day I've got six bags, whatever, and I
16 filled up two trash cans, and I still have to have one
17 sitting next to it. This will allow that. This was --
18 this was about keeping the bags off the street by
19 themselves.

20 COUNCILMAN SANTANELLO: Well, that's
21 where I'm confused, because the Borough Attorney just
22 said that a receptacle could be a bag, so there could
23 be four bags. Am I correct?

24 MR. RIORDAN: Yes. And -- and -- and
25 here's what I said. At the present time the ordinance

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1 says four -- no more than four receptacles, and a
2 receptacle can be either a bag or a can. So you could
3 actually have four bags, no can.

4 The new change requires that at least
5 one of those receptacles be a can.

6 MAYOR KANITRA: Right.

7 COUNCILMAN SANTANELLO: So we're still
8 talking one can and four bags. Okay. Or three bags.
9 It doesn't seem to answer what the Mayor is looking
10 for, which I agree with, which is us not having bags in
11 the street.

12 MR. RIORDAN: If it makes you feel any
13 better, Councilman, I wrote it originally so that there
14 could be only one bag out of the four and the rest had
15 to be cans, and somebody -- and I don't remember, it
16 might have been the Mayor; he'll jump in -- suggested
17 that it had to be -- it had to be more than one bag.

18 MAYOR KANITRA: I actually see what Bob
19 is saying.

20 COUNCILMAN CORTES: Right.

21 MAYOR KANITRA: And, Bob, this is
22 interesting --

23 MR. RIORDAN: Me too, Bob.

24 MAYOR KANITRA: This is interesting
25 coming from you because what I worried about is let's

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1 just say, you know, somebody owns two trash bins or
2 something like that. Is everybody in town going to go
3 out and need to buy another one or what if they have a
4 day when they have an extra bag, are we going to expect
5 to say, well, you have two plastic bags out there
6 instead of one and -- and cite them?

7 COUNCILMAN SANTANELLO: Mayor, as I was
8 saying, I thought we were trying to eliminate bags in
9 the streets.

10 MAYOR KANITRA: We are. We are.

11 COUNCILMAN SANTANELLO: (Indiscernible)
12 said that they don't want to have bags out three
13 because the -- the -- the seagulls get into the bags,
14 and she'd rather just see all cans as well and maybe
15 one bag.

16 MAYOR KANITRA: I'm totally fine with
17 it. If you've got a better mousetrap, I'm not too
18 proud on that. We can amend that.

19 COUNCILMAN CORTES: Mayor.

20 MAYOR KANITRA: Yes, Councilman Cortes.

21 COUNCILMAN CORTES: Is this -- you
22 know, I take this ordinance as more as the focus is
23 Ocean Avenue. Am I -- you know, I mean --

24 MAYOR KANITRA: There's a lot of
25 vacation rentals. East of Ocean Avenue, you'd see it

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1 quite bit. I assume east of 35, you'd see this -- a
2 fair amount.

3 COUNCILMAN CORTES: Okay. Well, I'm --
4 I'm open -- and I agree with you. You know, bags --
5 you know, food waste in bags always gets picked, you
6 know. If I put a bag out, it's usually something other
7 than food. But Ocean Avenue, in particular, we're
8 trying to, like, eliminate the bags out there. You
9 know, I'm -- you had -- you had me working on that with
10 Miss Riehl and John Trout. I'm -- I love it. I mean,
11 I don't want torn-open bags, you know, garbage. I'm
12 with Councilman Santanello and with you on this. But
13 it is kind of confusing.

14 MAYOR KANITRA: I am fully --

15 COUNCILMAN SANTANELLO: Just to make
16 one last statement. I mean, I have -- I -- I live in
17 two different places as you know. Most of the year I'm
18 on Central Avenue, but I make sure that during the
19 summer when my renters are there, they've got six cans
20 there. I mean, I don't want them putting garbage bags
21 in the streets. And when I live up -- and when I live
22 up here -- when I live up here on -- on Brunswick
23 Place, I have -- forever I've never left garbage out in
24 the street. I always use the cans even at the alleyway
25 for the garbage guys to pick up.

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1 MAYOR KANITRA: Then let's do -- let's
2 do --

3 COUNCILMAN SANTANELLO: So I'm --

4 MAYOR KANITRA: Let -- let's do what
5 you just said. Make a motion for up to five -- up to
6 five receptacles, only one of which can be a bag by
7 itself. Is that fair?

8 COUNCILMAN SANTANELLO: Okay. That
9 works for me. I'll make a motion, because I have to do
10 it, not you. So I'll make a motion for five
11 receptacles, four of which have to be cans, and one can
12 be a bag.

13 MAYOR KANITRA: Or -- or one can and
14 one bag.

15 COUNCILMAN SANTANELLO: Okay.

16 MAYOR KANITRA: Okay.

17 MR. RIORDAN: So, gentlemen, the way
18 that will read is you can have up to five receptacles
19 and no more of one of which can be a bag. And if you
20 have a bag, one has to be a can.

21 MAYOR KANITRA: All right.

22 COUNCILMAN SANTANELLO: Yes. Okay.

23 Anybody want to second that?

24 COUNCILMAN CORTES: Okay. I'm good
25 with that. I'll second that.

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1 MAYOR KANITRA: Look at us -- look at
2 us all getting along here.

3 MS. FARRELL: The motion is for up to
4 five receptacles, none of which can be a bag. And if
5 you have a bag, one has to be a can. Is that correct?

6 (Laughter)

7 MR. RIORDAN: No. Let me say it again.
8 The way -- the way the new ordinance is
9 going to read is you can have up to five receptacles.
10 You can have no more than one bag. And in order to
11 have even one bag, you have to have at least one can.

12 COUNCILMAN SANTANELLO: Perfect.

13 COUNCILMAN CORTES: (Indiscernible)
14 head is going to be spinning.

15 MR. RIORDAN: Hey, it's 10:30 at night.

16 COUNCILMAN SANTANELLO: Well, listen,
17 I've got to tell you. I can't stand it. When I go
18 home on -- when -- when I stop at my house on a
19 Saturday to check the old residents out and put the new
20 residents in, the renters, you know, I hate to say it,
21 but I've got neighbors that have five or six bags out
22 there. I'm horrified by that.

23 COUNCILMAN CORTES: Right. Right.

24 MAYOR KANITRA: Right.

25 MS. FARRELL: Okay. All right. The

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1 motion to approve with the amendment for up to five
2 receptacles, no more than one bag, and in order to have
3 even one bag, you must have one can.

4 COUNCILMAN CORTES: I want to
5 correct --

6 MR. RIORDAN: Correct, Eileen.

7 COUNCILMAN CORTES: Eileen, you said
8 approve. Motion to introduce.

9 MS. FARRELL: Oh, yes. Correct.
10 Was there a motion?

11 MAYOR KANITRA: Bob made one.

12 COUNCILMAN SANTANELLO: I made the
13 motion and Andy seconded it.

14 COUNCILMAN CORTES: I seconded it.

15 MS. FARRELL: Okay.

16 Councilman Vitale.

17 COUNCILMAN VITALE: Yes.

18 MS. FARRELL: Councilwoman Testa.

19 COUNCILWOMAN TESTA: Yes.

20 MS. FARRELL: Councilwoman Byrnes.

21 COUNCILWOMAN BYRNES: Yes.

22 MS. FARRELL: Councilman Cortes.

23 COUNCILMAN CORTES: I'm going to do an
24 Arlene. "Yes."

25 MS. FARRELL: Councilman Santanello.

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1 COUNCILMAN SANTANELLO: Yes.

2 MS. FARRELL: Councilman Migut.

3 COUNCIL PRESIDENT MIGUT: Yes.

4 MS. FARRELL: Okay. So the public
5 hearing will be August 4th.

6 Let's see.

7 There's one more ordinance. I just
8 want to -- let me just confirm. Ordinance 2020-11,
9 that was denied, correct?

10 COUNCILMAN CORTES: Yes.

11 MS. FARRELL: Yes.

12 All right. Ordinance 2020-14, An
13 Ordinance Of The Borough Of Point Pleasant Beach In The
14 County Of Ocean, New Jersey, Providing For Various
15 Capital Improvements To The Borough Of Point Pleasant
16 Beach And Appropriating \$1,951,100, Therefore, And
17 Providing For The Issuance of \$1,853,545 In General
18 Improvement Bonds Or Notes Of The Borough Of Point
19 Pleasant Beach To Finance The Same.

20 COUNCIL PRESIDENT MIGUT: Motion to
21 introduce.

22 COUNCILMAN VITALE: I'll second that.

23 MS. FARRELL: Okay.

24 Councilman Vitale.

25 COUNCILMAN VITALE: Yes.

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1 MS. FARRELL: Councilwoman Testa.
2 COUNCILWOMAN TESTA: Yes.
3 MS. FARRELL: Councilman Byrnes.
4 COUNCILWOMAN BYRNES: Yes.
5 MS. FARRELL: Is that a yes?
6 COUNCILWOMAN BYRNES: That's a yes,
7 Eileen.
8 MS. FARRELL: Thank you.
9 Councilman Cortes.
10 COUNCILMAN CORTES: Yes.
11 MS. FARRELL: Councilman Santanello.
12 Councilman Santanello.
13 COUNCILMAN SANTANELLO: Yes. Yes.
14 MS. FARRELL: Councilman Migut.
15 COUNCIL PRESIDENT MIGUT: Yes.
16 MS. FARRELL: Okay. The public hearing
17 will be held on August 4th.
18 Ordinance 2020-15 was tabled.
19 MR. RIORDAN: Correct.
20 MAYOR KANITRA: Okay. Second public
21 participation.
22 Hearing none.
23 MR. CAVAGNARO: Hello.
24 MAYOR KANITRA: Hello.
25 COUNCILMAN CORTES: Oh.

D. Cavagnaro

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1 MR. CAVAGNARO: Sorry.

2 (Laughter)

3 MR. CAVAGNARO: Two quick ones. Well,
4 actually, probably just one.

5 I appreciate that all of you care very,
6 very much about trees. And I appreciate what a
7 difficult decision it was for some of you to vote no.
8 Our property rights were higher. So thank you very
9 much as a property owner.

10 And have a wonderful evening.

11 COUNCILMAN CORTES: Thank you, Dave.
12 You too.

13 MAYOR KANITRA: Hold on one second.

14 Councilwoman Testa did you have
15 something to say?

16 COUNCILWOMAN TESTA: Well, in regards
17 to the tree ordinance, when there was discussion that
18 they had brought up when if you wanted to talk about it
19 you would have another chance, then to see the changes
20 in the tree ordinance?

21 MR. RIORDAN: No, ma'am, the tree
22 ordinance got voted down.

23 COUNCILWOMAN TESTA: Okay.

24 MR. RIORDAN: So it's done.

25 COUNCILWOMAN TESTA: Got you.

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1 Thank you.

2 MAYOR KANITRA: I have a question.

3 COUNCILWOMAN TESTA: So the tree
4 ordinance -- I guess what I'm trying to say is that if
5 the tree ordinance didn't pass this time, if they go
6 back to the drawing board and do another ordinance,
7 let's say, within a month, this could be revisited
8 again, correct?

9 COUNCILMAN CORTES: No.

10 MR. RIORDAN: No. Policy makes it
11 quite clear that you cannot bring up a subject that has
12 been voted down before during the same year unless a --

13 COUNCILWOMAN TESTA: Okay.

14 MR. RIORDAN: -- a member of the group
15 that voted it down moves to have it considered.
16 Somebody has to change their mind.

17 COUNCILMAN CORTES: I stand corrected.
18 You're right, Kevin.

19 COUNCILWOMAN TESTA: Okay. So if I
20 wanted to change my mind, I could, before this meeting
21 is over. Is that it?

22 MR. RIORDAN: No. No, ma'am.

23 COUNCILWOMAN TESTA: Okay. Never mind
24 then. I misunderstood. That's all I wanted to ask.

25 Thank you.

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1 MR. RIORDAN: You're welcome.
2 MAYOR KANITRA: Kevin, can I ask?
3 MR. RIORDAN: Yeah.
4 MAYOR KANITRA: If you're still in the
5 same meeting can you --
6 MR. RIORDAN: I can't hear you.
7 MAYOR KANITRA: Can you hear me?
8 MR. RIORDAN: I'm having trouble
9 hearing you, Paul.
10 MAYOR KANITRA: Kevin Riordan, can you
11 hear me?
12 MR. RIORDAN: I can now hear you.
13 MAYOR KANITRA: Okay. That's just an
14 interesting question in general. Because I feel like
15 we did that once two years ago at a Council Meeting.
16 Can you -- can you reconsider the vote if the meeting
17 is not adjourned?
18 MR. RIORDAN: Can you reconsider the
19 vote if the meeting is not adjourned?
20 Certainly, when we're not talking about
21 an ordinance, the easy answer to that question is yes.
22 An ordinance is a more difficult question to answer.
23 Tell me what's going on.
24 MAYOR KANITRA: It just sounded to me
25 like Councilwoman Testa -- I -- I don't know. I don't

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1 know.

2 MR. RIORDAN: Councilwoman Testa,
3 what's going on?

4 COUNCILWOMAN TESTA: Well, I guess --
5 no, nothing shady or anything. I guess --

6 MR. RIORDAN: No, no.

7 COUNCILWOMAN TESTA: No, no. No pun
8 intended.

9 No, I guess what I'm saying is with the
10 first reading if it had passed it would be open to
11 discussion again at the second meeting. So now that it
12 failed, it failed.

13 MR. RIORDAN: That is correct, right.

14 COUNCILWOMAN TESTA: Okay. All right.
15 If I -- I didn't real -- I guess I didn't realize it.
16 I thought it would be brought up again at the second
17 reading to have another vote on it. So I misunderstood
18 that. Again, I'm learning. I should ask these things
19 ahead so that's why. Because I know there were some
20 things brought up that I guess we would have had an
21 opportunity to look at that and make the changes for
22 some people that -- that wanted more changes. That's
23 all that I was asking.

24 MR. RIORDAN: You voted no, right?

25 COUNCILWOMAN TESTA: Yes, I did vote

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1 no, but I --

2 MR. RIORDAN: Okay. So -- so all you
3 have to do is -- is discuss the changes that would
4 cause you to want to vote yes, and you and I can talk
5 and we can draft something that has those changes and
6 you can bring it up because you voted no and --

7 COUNCILWOMAN TESTA: No, I was -- I
8 was --

9 MR. RIORDAN: -- and that would work.

10 COUNCILWOMAN TESTA: The -- the changes
11 I'm talking about is what was mentioned where if they
12 would give the incentives to the homeowner.

13 MR. RIORDAN: Okay. Well, we could
14 talk about that, you know, after this meeting is over.

15 COUNCILWOMAN TESTA: Okay.

16 Thank you.

17 MR. RIORDAN: And that had nothing to
18 do with the ordinance. That was (indiscernible)
19 anyway.

20 MAYOR KANITRA: You can always bring it
21 up as soon as the calendar year changes too, right?

22 MR. RIORDAN: Exactly.

23 COUNCILMAN CORTES: Yes.

24 MAYOR KANITRA: Fair enough.

25 COUNCILWOMAN TESTA: Okay. Thank you.

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1 I just -- I was just asking.

2 Thank you.

3 COUNCILMAN SANTANELLO: I mean, it's a
4 whole different issue. There's nothing wrong with
5 asking if, you know, the Shade Tree Committee -- forget
6 about the ordinance -- that the Shade Tree Committee do
7 something to help the residents. That's a whole
8 different issue.

9 MR. RIORDAN: That's absolutely
10 correct, Councilman. I'm sorry. I didn't hear you the
11 last time. That's absolutely correct.

12 COUNCILMAN SANTANELLO: Okay. So
13 that's something separate we could discuss in the
14 future.

15 MAYOR KANITRA: For something to be
16 brought up, it would have to be a substantive change in
17 the calendar year, right?

18 MR. RIORDAN: Or -- or -- yes, a
19 substantive change or something that was brought up by
20 somebody who voted no.

21 MAYOR KANITRA: Okay.

22 MR. RIORDAN: You know, if it's so
23 different that it's not the same ordinance, then we're
24 not talking about something that got voted down. But
25 if we're talking about a change that is a cosmetic

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1 change to something that was voted down, it would have
2 to be brought up by somebody who voted no. The
3 purpose is to avoid having to vote over and over and
4 over again on the same thing.

5 COUNCILWOMAN TESTA: Okay.

6 MAYOR KANITRA: Okay. And that makes a
7 lot of sense. So either Councilwoman Testa,
8 Santanello, Cortes or Migut would (indiscernible).

9 MR. RIORDAN: That's exactly right.

10 COUNCILWOMAN TESTA: Thank you.

11 MAYOR KANITRA: Okay. Was there any
12 other public participation?

13 All right. We got done. Everybody
14 thought this was going to be midnight. We're done at
15 10:30.

16 COUNCILMAN CORTES: Make a motion to
17 adjourn.

18 COUNCILMAN SANTANELLO: I'll second
19 that.

20 MAYOR KANITRA: All right, everybody.

21 COUNCILMAN CORTES: Signing off.

22 (Whereupon, the meeting concludes at
23 10:40 p.m.)

C E R T I F I C A T E

I, ISABEL E. COLE, Certified Court
Transcriber, AOC #101, do hereby certify the foregoing
transcript to have been prepared from a digital
recording made by COLE TRANSCRIPTION, L.L.C. and is
true and accurate to the best of my knowledge and
ability.

/s/ Isabel E. Cole
Carol E. Blackler AOC #101
COLE TRANSCRIPTION, L.L.C.
Dated: August 1, 2020

EXHIBIT 2

1

BOROUGH COUNCIL
BOROUGH OF POINT PLEASANT BEACH - COUNTY OF OCEAN
STATE OF NEW JERSEY

TRANSCRIPT OF PROCEEDINGS

Point Pleasant Beach Municipal Building
416 New Jersey Avenue
Point Pleasant Beach, New Jersey 08742

AUGUST 4, 2020
7:30 P.M.

COUNCIL MEMBERS PRESENT:

PAUL M. KANITRA, Mayor
CARYN BYRNES
ANDY CORTES
THOMAS MIGUT, Council President
ROBERT SANTANELLO
ARLENE TESTA
DOUGLAS VITALE

ALSO PRESENT:

Eileen Farrell, Municipal Clerk

COLE TRANSCRIPTION, L.L.C.
Certified Court Transcribers
P.O. BOX 34
WHITING, NEW JERSEY 08759
848-227-5001

APPEARANCES:

KEVIN B. RIORDAN, LLC
BY: KEVIN RIORDAN, ESQ.
20 Hadley Avenue
Toms River, New Jersey 08753
Attorney for the Borough

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Council President Migut	48
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Bob Rinaolo	96
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Joylene Rock	112

4

1 (Whereupon, a virtual meeting takes
2 place and is being recorded. Due to feedback and
3 interference in audio, various parts of the recording
4 are indiscernible.)

5 MS. FARRELL: Okay. "Adequate notice
6 of the time and place of this meeting was given under
7 the provisions of the Open Public Meetings Act and was
8 posted and sent to the officially designated newspapers
9 in compliance with the law."

10 Mayor Kanitra.

11 I'm not hearing.

12 Mayor Kanitra.

13 MAYOR KANITRA: Here.

14 Can you hear me?

15 MS. FARRELL: Now, I can, yes. Thank
16 you.

17 MS. FARRELL: Councilman Vitale.

18 COUNCILMAN VITALE: Here.

19 MS. FARRELL: Councilwoman Testa.

20 COUNCILWOMAN TESTA: Here.

21 MS. FARRELL: Councilwoman Byrnes.

22 COUNCILWOMAN BYRNES: Here.

23 MS. FARRELL: Councilman Cortes.

24 COUNCILMAN CORTES: I am here.

25 MS. FARRELL: Councilman Santanello.

5

1 Councilman Santanello.

2 I know that Councilman Santanello is on
3 the line, but I'm not hearing him.

4 Councilman Santanello.

5 COUNCILMAN SANTANELLO: Can you hear me
6 now? Can you hear me now?

7 MS. FARRELL: Yes. Thank you.

8 COUNCILMAN SANTANELLO: Okay.

9 MS. FARRELL: Councilman Migut.

10 COUNCIL PRESIDENT MIGUT: Here.

11 MS. FARRELL: Okay.

12 MAYOR KANITRA: Okay. If everyone
13 could rise for the flag salute and remain standing for
14 the invocation.

15 (Whereupon, the Pledge of Allegiance is
16 recited, an invocation is given, and the meeting then
17 continues as follows:)

18 MAYOR KANITRA: Okay. Welcome,
19 everybody.

20 If we could get a -- an approval of
21 the minutes from July 21st?

22 COUNCILMAN VITALE: I'll make a motion.

23 MAYOR KANITRA: Is there a second?

24 COUNCIL PRESIDENT MIGUT: Second.

25 COUNCILWOMAN BYRNES: I'll second that,

6

1 Mayor.

2 MAYOR KANITRA: Eileen.

3 MS. FARRELL: Was that Councilman Migut
4 first?

5 COUNCIL PRESIDENT MIGUT: Yes.

6 MS. FARRELL: Thank you.

7 Okay. Councilman Vitale.

8 COUNCILMAN VITALE: Yes.

9 MS. FARRELL: Councilwoman Testa.

10 COUNCILWOMAN TESTA: Yes.

11 MS. FARRELL: Councilwoman Byrnes.

12 COUNCILWOMAN BYRNES: Yes.

13 MS. FARRELL: Councilman Cortes.

14 COUNCILMAN CORTES: Yes.

15 MS. FARRELL: Councilman Santanello.

16 COUNCILMAN SANTANELLO: Yes.

17 MS. FARRELL: Councilman Migut.

18 COUNCIL PRESIDENT MIGUT: Yes.

19 MAYOR KANITRA: Okay. We're going to
20 move right into department head memos.

21 Councilman Vitale, if you could start
22 it off.

23 COUNCILMAN CORTES: No, we have fencing
24 on Arnold Avenue.

25 MAYOR KANITRA: Oh, I saw department

1 head memos. Sorry. Sorry.

2 Let me -- let me move that back.

3 Sorry.

4 Who is that?

5 COUNCILMAN CORTES: Well, it's actually
6 public property because it's going to be in the right-
7 of-way. This happens to be E.J. Geiger's house, and I
8 had a chance to go look at it. I spoke with him and we
9 have -- in the packet we have our code enforcement
10 comments.

11 He had to delineate his driveway. He
12 has a complete stone front yard and driveway, but he
13 had to delineate the driveway and put in some paver
14 blocks, like Belgian blocks. They taper down when they
15 come to the sidewalk, like any of them. But it is --
16 has created a tripping hazard when people are walking
17 on the sidewalk. As you know, they have a tendency to
18 not stay on the cement sidewalk proper. So he is
19 asking to put a small fence up along the sidewalk and
20 down his driveway just to stop people from, you know,
21 tripping, keep them on the sidewalk. The problem is it
22 will be outside of his setback property line. So he's
23 -- he was told to just get approval from the Council
24 and it would be okay. And I don't see a problem with
25 it. You know, the houses are set back farther on

8

1 Arnold Avenue so the property line is --

2 MR. RIORDAN: Councilman.

3 COUNCILMAN CORTES: Yeah.

4 MR. RIORDAN: Councilman, let -- let me
5 interrupt.

6 So to the extent that what he wants to
7 do is put a fence on borough property that is in the
8 right-of-way, then that -- what you traditionally do in
9 those circumstances is you enter into what's called a
10 license agreement which basically says, look, you can
11 put this on borough property but we're not going to
12 give you the borough property. And if at any time the
13 Borough, for whatever reason, needs the property,
14 you're going to give it back. And that suffices for
15 the borough property.

16 To the extent that the fence violates
17 zoning ordinances and setbacks and stuff like that, the
18 governing body doesn't have the power to grant him
19 those passes. Those, he would have to go to the Boards
20 for. And I don't -- I didn't look at the layout
21 carefully enough.

22 Is it in the packet, Andy?

23 COUNCILMAN CORTES: No. As far as I
24 know it was just a comment in an email reference. I --
25 I'm not sure if -- I see that Georgia Cassidy is on.

9

1 I'm not sure if E.J. is on. They might be able to
2 speak. But I understand, Mr. Riordan, we did that a
3 couple of years ago with a property owner on Broadway
4 that had a white fence running from the boardwalk and
5 westbound for about a hundred feet and we also --

6 MR. RIORDAN: Councilman Cortes, that's
7 exactly right.

8 COUNCILMAN CORTES: And we did that on
9 Ocean Avenue with a house north of Water Street that
10 happened to be rebuilding a porch that abutted right up
11 against the sidewalk.

12 MR. RIORDAN: But this -- do you want
13 to keep going?

14 COUNCILMAN CORTES: Well, I just
15 remember those things there, Mr. Riordan.

16 MR. RIORDAN: No. And -- and -- and,
17 Councilman, that's exactly right. So certainly I -- I
18 -- I would recommend that you enter into the license
19 agreement like you have on all the other properties.
20 But any zoning violations, you can't do that. You have
21 to wait for the Zoning Board to do that.

22 COUNCILMAN CORTES: E.J., are you on --
23 on the --

24 MR. GEIGER: Yeah, I am.

25 We actually -- I -- I put in the

10

1 application. I was, you know, informed about the
2 setback, which is 4 feet from -- from the sidewalk.
3 So, originally, I was told to apply for a variance, and
4 then I got a call the next day that they had looked at
5 everything -- meaning the zoning officer and, I guess,
6 whoever does the variances, Karen and that -- and they
7 said for what I wanted -- because it wasn't a full
8 fence, I guess -- it's just a corner fence and then a
9 corner fence on the other side -- we could just do it
10 this way.

11 Like I said, the (indiscernible) was
12 put in at the town's request.

13 MR. RIORDAN: I -- I think that's an
14 interesting interpretation of the zoning ordinance.
15 Although I haven't seen the plans -- and apparently
16 they have -- the bottom line stays the same, assuming
17 that what you need is permission to build in the town's
18 right-of-way, that's simply a license agreement.
19 Assuming you have setback requirement problems, that's
20 an issue for the zoning office. And, certainly, if
21 they have questions, they have my number.

22 MAYOR KANITRA: Can we approve it
23 contingent on that confirmation?

24 MR. RIORDAN: Well, what I would
25 recommend is that you approve a license agreement.

11

1 COUNCILMAN CORTES: Correct.

2 MR. RIORDAN: And then send E.J. back
3 to the -- the building department for whatever more
4 permits he might need. And E.J. is a standup guy.
5 He'll tell them what I said. And if they're confused,
6 they'll call me.

7 MR. GEIGER: Sure. And, like I said, I
8 put in the permit and, you know, she called me right
9 away and just said it needed to be adjusted. And then
10 I was going to adjust it and then we realized how far
11 back it was, and I said, well, it doesn't make sense to
12 put the fence four feet in. You're not going to
13 delineate any -- you're not going to stop any tripping
14 hazard if you do that.

15 COUNCILMAN CORTES: Okay. Upon the
16 Borough Attorney's recommendation, I'd like to move
17 this to a consent resolution to authorize to enter into
18 a license agreement for 115 Arnold Avenue, contingent
19 upon any building department requirements.

20 Right? Is that correct there, Mr.
21 Riordan?

22 MR. RIORDAN: That's perfect,
23 Councilman. Thank you.

24 COUNCILMAN CORTES: See I did learn
25 something --

D. Vitale

12

1 MS. FARRELL: I'll make that Item 1v).

2 MAYOR KANITRA: Okay.

3 COUNCILMAN CORTES: Okay. That'll be
4 one what?

5 MS. FARRELL: "V" as in Victor, 1v).

6 COUNCILMAN CORTES: Okay.

7 MS. FARRELL: I'm just -- can I just
8 say that I'm having a lot of trouble hearing. There's
9 just a lot of background noise.

10 MAYOR KANITRA: I can hear you okay,
11 Eileen. But, Doug, if there's anybody else that needed
12 to be muted on the line, please do that but don't mute
13 yourself because you're up for department -- committee
14 reports.

15 COUNCILMAN VITALE: Okay. Thank you,
16 Mr. Mayor.

17 So let's start with the police
18 department.

19 Tomorrow night is a meeting of the
20 Neighborhood Partnership Initiative at 7 p.m. via Zoom.
21 This is a great opportunity to interact with Chief
22 Michigan and his staff to discuss any topics of
23 interest, specifically quality-of-life issues.

24 The Zoom details were sent out via
25 numerous Facebook pages. If anybody is listening and

D. Vitale

13

1 they're not on Facebook, feel free to email me and I'll
2 get you the information. Again, that's tomorrow night
3 at 7 p.m., via Zoom.

4 We're looking to start this up again.
5 The pandemic kind of sidelined us, but we will start
6 doing monthly meetings with the police department.

7 Moving on to the Rec. Committee, the
8 tug-of-war, unfortunately, was the latest victim of the
9 pandemic. We met with Manasquan Rec. and the sponsors,
10 and it was -- it was thought that, you know, it -- it's
11 just not worth trying to put this together and then
12 have, you know, low attendance. So it's cancelled
13 until next year.

14 Summer camp has --

15 (Whereupon, Councilman Vitale is
16 indiscernible due to conversations coming through the
17 recording.)

18 COUNCILMAN VITALE: -- and those codes
19 were posted on the Rec. Facebook page.

20 And the Rec. Committee is looking to
21 move forward with Family Fishing Night sometime in
22 September at the inlet. We're still working out the
23 details. We figure we can do that in a socially-
24 distanced environment. So we have some bait shops and
25 some of the charters that are willing to help out. So

D. Vitale/A. Testa

14

1 we're going to move forward with that.

2 And we're looking to move forward with
3 the bonfire. Again, we'll do it in a socially-
4 distanced environment. More information will be coming
5 in the next few weeks on that.

6 And then one last thing. On the street
7 sewers, I've been working with Councilman Santanello
8 and Christine Riehl on the -- there's pooling water in
9 front of Jimmy's Cucina on the corner of Broadway and
10 Baltimore. So Christine has reached out to the County
11 for assistance on that, and we're waiting to hear back
12 from them.

13 And that's all I have, Mayor.

14 MAYOR KANITRA: Great, Councilman.

15 Thank you very much.

16 We're getting (indiscernible). I can't
17 -- I can't figure it out who it is. There you go.
18 Thank you.

19 And, Councilman Migut's line is giving
20 us feedback. So maybe you can turn it off.

21 Thank you.

22 Councilwoman Testa, you're next.

23 COUNCILWOMAN TESTA: Thank you, Mayor.

24 I'm going to jump right into the Arts
25 Committee. So there are a couple of things that are

A. Testa

15

1 going on right now with the Arts Committee that they're
2 planning. They want to -- well, actually, it would be
3 tonight. It's an online art show this evening. So if
4 you're on this, I believe you can go onto
5 pointbeacharts.com or you can check out the gallery on
6 the website for display. It will (indiscernible) if
7 the residents or public want to look at the art, they
8 can maybe do a public vote and then they'll send it
9 over to judges. That's actually scheduled for tonight.

10 Also, they -- downtown with the gallery
11 -- I had mentioned it in my last committee report,
12 they're moving forward with that, and I don't know if
13 some of you have noticed already, on Bay Avenue with
14 Stella Luna, how they started adding more art to the
15 wall. They're like the black, I guess, blackbirds. I
16 mean, it looks really cool. So I don't know if anyone
17 saw that. But they're going to be moving forward with
18 that.

19 And they're also talks of doing a blog.
20 It's going to be called "What Inspires You to Blog."
21 There will be more information coming out for that.

22 Also, they would like to have a small
23 gathering. Some of the events that they're thinking
24 about, I'll keep you posted. But right now one is a
25 small gathering at the Little Point Library, possibly

A. Testa

16

1 in the back parking lot behind the shop -- and
2 obviously, it's social distancing and masks required --
3 to do some reading. Some -- some authors are going
4 there and just, you know, reading their books. So
5 that's something that they're considering. So as we
6 move forward, I'll give you those dates. But those are
7 things that the Arts Committee is thinking of doing
8 right now.

9 I don't really -- as far as
10 Beautification goes, I know that news -- Kristen
11 O'Rourke is going to have the newsletter come out, and
12 Beautification is going to be in there, and they have a
13 lot of how you can become a member, what -- and what
14 the Beautification Committee is about, if you'd like to
15 join.

16 But as of right now, basically, they're
17 just working hard watering those barrels, maintaining
18 their garden, and I think they're doing a fabulous job.
19 I mean, this -- this heat wave is unbelievable. So,
20 you know, hats off to the Beautification Committee and
21 -- and their members that are out there diligently
22 every day watering and taking care of their gardens.
23 So kudos to you. Great job, Beautification Committee.

24 And, lastly, I do get a lot of
25 requests, you know, about -- because I guess with the

A. Testa

17

1 street initiative, a lot of residents will email me,
2 and I do forward all your emails always.

3 So the latest update that I have right
4 now from Kristen O'Rourke and with Christine Riehl is a
5 resident had requested to look at, Kristen, Chicago.
6 So, as per the request, we will ask DOT to look at
7 those areas. Again, everything, you know, takes time
8 because they have to do a -- they have to do, like, a
9 survey. They have to, you know, weigh it out. They
10 have -- it takes a couple of months. So -- so we are
11 going to look at, Kristen, Chicago. I know that is a
12 big area of concern for some residents over there.

13 Also, Ocean and Broadway are county
14 roads. So that you're talking -- we're going to talk
15 about that. Christine spoke with the County recently
16 regarding Broadway, and they have plans to add some new
17 crosswalks at certain intersections. I'm not sure
18 about all the details. But as we move forward, I'll
19 keep -- I'll keep you posted.

20 Kristen O'Rourke and Christine Riehl
21 met with the DOT yesterday -- well, this is in -- in my
22 text -- about 35 South and Arnold. They are putting in
23 a work order for "Don't Block the Box" to be painted on
24 the pavement over the next couple of weeks.

25 Also, a resident had asked about a "No

A. Testa

18

1 Outlet" sign over by Yale. And I believe they're going
2 to put a work order in for that as well.

3 So, you know, keep them coming. I
4 forward them to Christine Riehl and to Kristen
5 O'Rourke, and we do, you know, take -- we try to do
6 what we can. And, you know, at each meeting I will
7 keep you updated. So that's what I have for now.

8 And that's really it.

9 So thank you, Mayor.

10 MAYOR KANITRA: Wonderful.

11 COUNCILWOMAN TESTA: Thank you to --
12 you know, again, to our police, our wonderful Police
13 Chief Michigan and all the police and (indiscernible).

14 MAYOR KANITRA: If You're Seabyc, could
15 you go on mute, please, and, Doug, could you mute them.
16 S-E-A-B-Y-C.

17 COUNCILMAN VITALE: Got them. They're
18 muted.

19 COUNCILWOMAN TESTA: And that's it.

20 Thank you.

21 MAYOR KANITRA: Thank you,
22 Councilwoman. Great report, although people are
23 probably sad that you didn't break out a cooler this
24 time.

25 COUNCILWOMAN TESTA: Don't worry. You

K. Byrnes

19

1 never know.

2 MAYOR KANITRA: Councilwoman Byrnes.

3 COUNCILWOMAN BYRNES: Hello, everybody.

4 Thank you for joining us. Thank you, Mayor.

5 Just real quickly, let me say, Mayor,
6 for all your tireless efforts really making this town
7 as nice as it could be, thank you.

8 Chief Michigan, who I'm not really sure
9 is with us tonight, I wanted to say that with all the
10 so many people that I come in contact with on a daily
11 basis everybody is grateful for such a fine department.
12 And they all notice and everybody is grateful and so
13 thank you for that.

14 MAYOR KANITRA: He's on well-deserved
15 vacation rest.

16 COUNCILWOMAN BYRNES: Yes. I'm sure.

17 Okay. So I'm going to go right to my
18 committee reports but I'm going to start with Shade
19 Tree because I met with them last night. Let me start
20 with saying too I have to give a shout out to all those
21 volunteers, really, because they're just such a great
22 group of well-intentioned, hard-working people, you
23 know. I mean, they're well-informed. They're --
24 they're just -- they're articulate. They care.
25 They're passionate, you know. And, you know, they --

K. Byrnes

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1 they give it all they have. You couldn't really know
2 all that -- all that they do until you get really
3 familiar with them, you know -- you know, from the
4 physical demands of what volunteers could incur,
5 really, it's -- it's all the behind-the-scene stuff.
6 You know, it's identifying grants and it's the
7 inventory of the trees and identifying the trees that
8 could be damaging and -- and dangerous and
9 communicating with the residents that want a tree and
10 -- and all of the -- the list goes on and on and on.

11 So, really, every single piece that
12 they do improves the town such a great deal. You know,
13 and it all -- they go unnoticed. So I just want to say
14 thank you to them because we are really all
15 appreciative of that.

16 Some concerns that they did have last
17 night -- of course, you know that the ordinance didn't
18 pass was a little disappointing, but they will stay the
19 course.

20 Let's see.

21 They spoke with some concerns about
22 maybe the irrigation system over by the lake. You
23 know, I guess the concerns would be that they expressed
24 that Rob may be taken from his watering duties, and
25 they were so, you know -- that -- that the irrigation

K. Byrnes

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1 would not be suitable enough, you know. So they were a
2 little concerned over that.

3 They did speak about how important
4 Rob's performance has been to our town and how
5 noticeably better our trees are for it. They requested
6 if we can all do our best to please get him a larger
7 water tank. You know, it's -- they said it's such a
8 small-ticket item that if we can't see ourselves to --
9 to purchase that for them, that they would take that on
10 themselves.

11 And the probability of having 30 new,
12 additional trees along with the 50 that have not
13 matured yet enough to, you know, to drop the watering
14 on, there is concern there for that.

15 MAYOR KANITRA: If you want to, you're
16 more than welcome to work with the Borough
17 Administrator after we get the irrigation system set up
18 and see if that has lessened the need for a big tank or
19 if we still need a big tank and talk with her about,
20 you know, how necessary it is. Give it -- give it a
21 couple of weeks to get installed and everything and
22 we'll see where we're at. But if you want to work with
23 the Borough Administrator --

24 COUNCILWOMAN BYRNES: Sure.

25 MAYOR KANITRA: -- and see what the

K. Byrnes

22

1 possibilities are or what the needs are at that time.

2 COUNCILWOMAN BYRNES: Sure, positively.

3 They spoke about how badly needed the
4 bike racks are downtown and are really looking forward
5 to that. So in addition to the bike racks to -- to
6 complement the -- the -- you know, that the -- that the
7 trees don't really sustain any more damage, they're
8 also purchasing some tree guards. That will be -- be
9 implemented in the next couple of weeks as well.

10 And then -- so then we have -- let's
11 see.

12 We spoke about some educational
13 opportunities for the constituents to learn how to
14 prune a tree, you know, because there may be some of
15 that, you know.

16 The Fisher Fund trees that are coming,
17 anybody that's the recipient of a Fisher Fund tree,
18 they have all made the -- made the -- made the
19 commitment to watering these trees themselves and
20 letting them, you know -- and nurturing them until they
21 take root. So then there would not be any trouble
22 there with those.

23 Let's see.

24 We have the Environmental Commission
25 which I don't have too much on. They're going to take

K. Byrnes

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1 on that tract of land on Arnold Avenue between the
2 firehouse and the -- and the -- and the -- and the post
3 office. And they'll be looking for -- you know, there
4 will be another volunteer project. And they'll be
5 looking for a considerable amount of high school sen --
6 students who are willing to get involved with the
7 project and design right through the execution of this
8 project. So they'll be looking for -- they'll be
9 working alongside a professional with the volunteers
10 that would work with the students and would be quite
11 informative for them too.

12 So if any of you listening are here
13 with us tonight that have any students that this would
14 be right up their alley, certainly, reach out to me or
15 any of the people on the Shade Tree, and we'll
16 certainly put them on our list to join with us in our
17 efforts.

18 That's all we have on them.

19 The green -- the Green Team continues
20 to work on a number of sustainable Jersey actions that
21 are a great benefit to our community. We have a bronze
22 certificate now, and we're just working on a number of
23 actions and efforts to possibly bring that to a silver
24 certification. One night I can maybe explain what all
25 that really -- what all that really means, but it is

K. Byrnes

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1 quite lengthy.

2 And I think that's -- you know, I
3 reached out to Chief Ryan today. I know he said I'll
4 get back to you Caryn, I'm on a lot of calls, which was
5 understandable during that storm this morning. I do
6 know, though, that they are having a fundraiser. And
7 they're having a T-shirt fundraiser. We -- we bought a
8 few. They're really high-quality. It's a small way to
9 be able to say, you know, thank you for all you do, you
10 know, and recognize their efforts. And that's it. If
11 anybody would like to purchase one, I could certainly
12 help get the information to you or bring one over to
13 the house or whatever. You could just reach out for
14 me.

15 A FEMALE VOICE: So you're the one to
16 get it, Caryn, from you, right?

17 COUNCILWOMAN BYRNES: Well, I could
18 just help make it easier for you, sure.

19 A FEMALE VOICE: Okay.

20 COUNCILWOMAN BYRNES: The quality-of-
21 life concerns, I receive a real lot of calls on this,
22 and I work very closely with Gina. And that's all been
23 going, you know -- it's all been going very nicely,
24 actually.

25 And then I think that's it.

K. Byrnes

25

1 I've spoken to our weekend residents, I
2 guess, on the garbage that we're going to discuss
3 tonight. And so they shared their concerns with me.
4 There are really -- there are quite a few, actually,
5 you know. But, you know, they understand. I guess
6 they were a little hopeful, maybe, that there would be
7 something over at the DPW that they could drop their
8 stuff off. They understand all the complications that
9 any -- any of the solutions may involve and, you know,
10 we -- we haven't lost them for it. You know, they --
11 they understand it.

12 And I think that's pretty much it.

13 MAYOR KANITRA: Thank you,
14 Councilwoman.

15 And just one other aside for the Shade
16 Tree Commission. I wrote a letter in support for a
17 grant application that they applied for with the County
18 for the trees, some very mature trees to go on -- on
19 some of our highways and some of our more industrial
20 routes. I think we feel good about our chances for
21 that.

22 COUNCILWOMAN BYRNES: They feel very
23 positive about that, actually, Mayor.

24 MAYOR KANITRA: They're doing --
25 they're doing a lot of great stuff, and I know that

C. Byrnes/A. Cortes

26

1 they --

2 COUNCILWOMAN BYRNES: They certainly
3 are.

4 MAYOR KANITRA: -- they are grateful
5 for your help on that. So thank you.

6 COUNCILWOMAN BYRNES: Thank you.

7 MAYOR KANITRA: Okay. Councilman
8 Cortes.

9 COUNCILMAN CORTES: Thank you, Mayor.
10 Good evening, everyone.

11 A MALE VOICE: Nine o'clock is the high
12 tide, yeah.

13 MAYOR KANITRA: Whoever just said "Nine
14 o'clock is the high tide," please put yourself on mute.

15 COUNCILMAN VITALE: I got him.

16 COUNCILMAN CORTES: Thank you.

17 Now, that we all know that, that's
18 great. We'll be out looking.

19 Thank you, Mayor.

20 First thing, personnel -- Personnel
21 Committee, recognize first month -- first meeting of
22 the month the three people that have anniversaries this
23 month.

24 From the police, Jerry Quaglia. He's
25 celebrating 24 years, but he will be retiring at the

A. Cortes

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1 end of this year. So he's making 24 and then he's
2 going.

3 Our Administrator -- our
4 Administrator's secretary, Patti Kyle, does a numerous
5 amount of work. She's here eight years.

6 And DPW, Collette Betz, the overseer of
7 our recycling and drop-off, six years.

8 Congratulations to them.

9 Public property, buildings and grounds,
10 that's the committee I've chaired for, oh, probably,
11 six, maybe, seven years now.

12 If anybody is out there, my cell phone
13 is 732-232-3316. Call me if you have any issue. I
14 will come and look, and I will try to resolve it, or
15 I'll tell you if we can't resolve it. I'm always in
16 town.

17 One r) on the agenda, I spoke to John
18 Trout. He met with Enviroscapes over at Lake of the
19 Lillies, and I hope we get a -- a vote on that.
20 Enviroscapes said the level was perfect for flooding
21 and for the vegetation, so I'm hoping we'll get a
22 positive vote on that one.

23 One p), Boston Avenue bulkhead,
24 finally. This has been on the work -- in the works for
25 a while. That's on the agenda. I hope we can get

A. Cortes

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1 approval for that. O'Donnell Stanton is getting the
2 engineering bid, I'm happy to see, instead of a
3 Canadian company.

4 The 1f), 1f) on here, this is
5 interesting. This is Sura Surf mat. Playgrounds have
6 to have certain, special, you know, matting for safety
7 which I find -- I find it crazy because how do you
8 learn, you know, not to get hurt if you don't get hurt.

9 But, anyway, the inlet -- the inlet
10 playground over at Loughran Point has had special play
11 sand. And when we get a storm or high winds or just,
12 you know, any kind of high tide with flooding, it gets
13 contaminated with regular sand, so you just can't leave
14 it, and I know it sounds crazy. You know, we can't use
15 -- you know, we have to have special sand. We've had
16 to purchase over the past -- since the -- that
17 playground has been built, we numerous times purchased
18 new sand, man hours with DPW to go down and sift it.

19 These mats will allow DPW to go down
20 there with -- with regular blowers, you know, that you
21 would use on your own property for grass clippings or
22 leaves and just blow the sand away, and it conforms to
23 all the safety regulations in JIF. So I'm hoping
24 anybody looking at that high-dollar amount, that should
25 pay for itself over -- within a few storms or high

A. Cortes

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1 winds. I hope we get a yes vote on that.

2 If you've been down Cook's Lane by DPW,
3 there's a larger pile of mulch. Some more mulch was
4 delivered. That is free to the residents. If you want
5 to go down with a garbage pail, feel free to shovel
6 some mulch.

7 We did purchase and receive a second,
8 small street vac, and that's been out there and being
9 used and it's been phenomenal. If one breaks, we still
10 have one. Having both out there, we're covering more
11 ground in a quicker amount of time in cleaning up some
12 of this garbage that -- that's been laying around.

13 The new Neptune water antenna was
14 installed on top of the water tower. We had an issue
15 there. It was struck by lightning. Christine Riehl,
16 our Administrator, will be submitting that for an
17 insurance claim. And we also have a spare antenna,
18 God forbid, that ever happens again. We were -- we
19 weren't in a position where we couldn't read meters,
20 but we actually, speaking to the water department, we
21 had missed two or three constant-flow alerts by having
22 that antennae. It took some time to get it replaced
23 because they're all specifically made to a certain
24 length for the frequency. So it's not a standard off
25 the -- off-the-shelf item. But we have two now. So

A. Cortes

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1 that's great.

2 On the agenda, 11), DPW wants to
3 auction a surplus vehicle. That is a 2002
4 International dump-truck. And Jim Trout usually gets
5 the best amount of money that he can when he auctions
6 off his vehicles. So he'll do that.

7 Lastly, I'm going to touch on --
8 Councilwoman Byrnes touched on the sprinkler system. I
9 received a call from Anne Lightburn yesterday. I spoke
10 to her. Her concerns were -- is at -- at Little Silver
11 Lake, is it going to be along the lake and shooting out
12 into the parking lot or along the parking lot and
13 shooting in there? I don't know that. It didn't say
14 that on the quote.

15 But I have done an in-depth study of
16 both bids that we got, and the one that we're going to
17 go with is going to put 149 rotor heads in the Little
18 Silver Lake parking lot area, starting from the band
19 shell out. Those rotor heads will hit anything from 20
20 to 50 feet. So like I told Anne Lightburn, I think
21 that's enough water that's going to cover grass and
22 trees. And if the trees don't get a sufficient amount
23 of water, Rob is still out there, our part-time guy,
24 who will probably water those trees anyway. So I told
25 her that she can feel safe that the trees will not die

A. Cortes

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1 or be lack -- lacking of any water.

2 As far as the size of the tank, they
3 will limited to a 100-gallon tank because they used the
4 Toro. Rob now is in a -- a pickup truck, albeit a
5 small-size pickup, not a full-size truck. I'm not sure
6 what size tank can fit in the back of that. I know he
7 uses the fire hydrant now to fill it up. So it takes
8 about three minutes to fill a 100-gallon tank instead
9 of a garden hose like the Shade Tree Commission was
10 using. So it might take him -- he might get six or
11 seven trees out of the 100-gallon tank, and it takes
12 him about 15 minutes to go back to the yard, fill it up
13 and go back out. If you calculate that over the course
14 of a full day, yeah, would a larger tank help? I'm
15 just now sure. I would have to speak to John Trout.
16 I'm not sure if it'll fit in the back of the small
17 pickup truck or a small-size truck.

18 MAYOR KANITRA: Maybe Councilwoman
19 Byrnes can work on that with John --

20 COUNCILWOMAN BYRNES: Sure.

21 MAYOR KANITRA: -- and see --

22 COUNCILMAN CORTES: Sure, yeah. It
23 just has -- you know, you have to take some dimensions
24 and measurements. Like I said, I know that he just --
25 they took it off the Toro and put it in the bed -- the

A. Cortes/R. Santanello

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1 bed of this truck. And it's, like I said, a smaller
2 pickup. It's not a full-size, like, F150 or a --

3 COUNCILWOMAN BYRNES: Right.

4 COUNCILMAN CORTES: -- Dodge 1500.

5 COUNCILWOMAN BYRNES: Right.

6 COUNCILMAN CORTES: So we can check on
7 that.

8 COUNCILWOMAN BYRNES: Okay.

9 COUNCILMAN CORTES: Mayor, I believe
10 that's it for me.

11 MAYOR KANITRA: Great. Thank you,
12 Councilman.

13 Councilman Santanello.

14 COUNCILMAN SANTANELLO: Thank you,
15 Mayor.

16 Can everybody hear me okay?

17 MS. FARRELL: Yes.

18 MAYOR KANITRA: Yes.

19 COUNCILMAN CORTES: Yes.

20 COUNCILMAN SANTANELLO: Okay. I know
21 we were struggling earlier so...

22 Mayor, I am going to ask you one favor
23 before I start my report. I know I say some things
24 that annoy you at times. I would just like you let me
25 get through my report tonight without interjecting. I

R. Santanello

33

1 find myself going about 14 minutes. If you could just
2 take notes and then yell at me all you want when I'm
3 done, I'd appreciate that. Fair enough?

4 MAYOR KANITRA: Fourteen minutes?

5 COUNCILMAN SANTANELLO: Fourteen.
6 Fourteen.

7 MAYOR KANITRA: Okay.

8 COUNCILMAN SANTANELLO: One-four. All
9 right.

10 So a few agenda items before I get to
11 the meat of tonight's discussion.

12 One d) to me is nothing but a massive
13 money grab by the Borough Engineer. It's an additional
14 \$550 in fees going right in their pockets; \$3,000 more
15 in bonds. And having built a home in town, I can
16 assure you that every penny of that 3,000 will be
17 spent. In essence, the engineering firm will be
18 extracting a total of \$7100 instead of \$3500. It looks
19 like in addition to the Mayor's promise to make Riordan
20 rich, he promised the same thing to the new engineering
21 firm who just happen to be a large distributor to his
22 campaign.

23 I also object to the entire recharge
24 system in (indiscernible). It's ridiculous to have a
25 homeowner pay thousands of dollars for a system that

R. Santanello

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1 doesn't work because our watertable is no more than a
2 foot -- a foot and a half to two feet deep.

3 All right, 1m). In the midst of the
4 biggest economic slump in the history of the United
5 States, we're taking our taxpayers' hard-earned money
6 and sending it to a Canadian real estate firm. I
7 object.

8 One p), while I'm in favor of the work
9 being done, I'll continue my objections to the Borough
10 Attorney review and him getting paid to pretend he
11 knows something about engineering.

12 Next, we received a statement of the
13 revenue for the town-to-date, 2020. As I've stated
14 repeatedly during the budget conversations that with
15 massive losses of revenue, approximately \$350,000 so
16 far -- and that's just in June -- 2020 was not the time
17 to go on a spending spree, but that's what we're doing.
18 And we're going to be paying some substantial legal
19 fees, but more on that later.

20 It's also interesting that the Mayor
21 says it's no big deal (indiscernible).

22 Now, I would like to thank the Mayor
23 and Councilman Vitale for their time and thoughts to
24 the Skate Park Ordinance.

25 I want to ask Mr. Riordan real quickly.

R. Santanello

35

1 Are we voting on the final Skate Park Ordinance that
2 was the red line one that you sent to us about two
3 hours ago?

4 MR. RIORDAN: That's my understanding.

5 COUNCILMAN SANTANELLO: Okay. Good.

6 Thank you.

7 While I'm not completely thrilled with
8 the entire ordinance, it's -- it's good enough. It's a
9 good compromise.

10 And, frankly, it's nice to know that we
11 can all work together, just like the Garbage Can
12 Ordinance that's on tonight, and come to something that
13 we all agree upon in the end.

14 And, by the way, on the Garbage Can
15 Ordinance, I will tell you that some folks up here on
16 Brunswick Place told me earlier today that frankly
17 they're thrilled with the lack of garbage on Ocean
18 Avenue. That's working out really well, and I hope
19 everybody votes on that as well.

20 Which leads me to the very unpleasant
21 task that I have tonight. I promised in my first
22 meeting this year that I wouldn't start any fights with
23 other members of the governing body. I think I've done
24 an okay job on that, and my fellow Council Members have
25 been excellent as well. Sadly, I feel a fight has been

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1 brought to me personally and to people that I care
2 about and people I respect by the Mayor.

3 Our last meeting went very well. We
4 had some policy differences but it was cordial. I'll
5 even quote the Mayor who said, "Look at all of us
6 getting along." Well, apparently, the Mayor wasn't
7 happy that he didn't get his way on everything because
8 less than eight hours later he put out a social media
9 post that was just out flat out repulsive to a whole
10 bunch of people and placed blame for things happening
11 under his watch on anyone and everyone he could think
12 of. And even though he already hung his mission
13 accomplished banner and took a victory lap, the
14 ordinance has not passed yet, although I expect it
15 will.

16 There's a Chinese proverb that
17 basically says if you blame others all the time, you
18 have a long journey to go; if you blame yourself,
19 you're halfway there; and if you don't blame at all,
20 you've arrived. And to be clear I wrote this statement
21 that I'm going to have coming up right here well before
22 receiving communication from some other attorneys
23 today.

24 Let's take a look at who the Mayor
25 insulted. First, he said rules being placed to stem

R. Santanello

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1 the tide of disrespect left unchecked for the last five
2 years. The Mayor simply can't resist taking shots at
3 Steven Reid even seven full months after he took
4 office. There's nothing worse in my opinion than
5 kicking a man when he's down, but it's behavior I've
6 come to expect.

7 At the same time he was also insulting
8 Tom Toohey, Tom Vogel, Andy Cortes, myself and Tom
9 Migut, a person he called (indiscernible) endorsed his
10 campaign and a person he's fully endorsed for
11 reelection this year. Apparently, we spent the last
12 five years sitting around doing nothing. I'm calling
13 b.s. on that. He conveniently forgets that we passed
14 an ordinance limiting the (indiscernible) coolers
15 already and we worked with the (indiscernible) to ban
16 people from staying on the beach after 5 p.m. without a
17 badge, no tables and chairs, no chafing dishes and
18 limiting the (indiscernible).

19 To insinuate any of the people that I
20 just mentioned didn't care about this town and
21 (indiscernible) was insulting. How dare you? These
22 are people that dedicated their lives to making Point
23 Pleasant Beach a better place.

24 Considering the fact that I have heard
25 the mayors of Lavallette, Brick Town, Belmar and quite

R. Santanello

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1 a few other towns along the shore have comments on the
2 breakdown in behavior this year, it's clearly not just
3 a Point Pleasant Beach thing. But I guess it must make
4 the Mayor feel better about himself by pointing a
5 finger at anybody but himself.

6 So let me be clear. I don't blame
7 Mayor Kanitra either. We are experiencing massive
8 societal upheaval, the highest unemployment in history.
9 People are economically devastated. We're in a
10 pandemic of a scale none of us have ever seen in our
11 lives and an uncertainty about schools, jobs and homes.
12 People are angry and scared. But by the Mayor's logic,
13 Steve Reid and the rest of us are all responsible for
14 the breakdown in civility. Yet, Lavallette, Brick,
15 Belmar and all the other places where there's unrest is
16 the fault of the previous governing body. Give me a
17 break.

18 And before anyone makes some kind of
19 stupid comments that I'm fine with what's going on, of
20 course I don't. There's no excuse for lawlessness, but
21 blaming others isn't the answer.

22 At the same time he's pointed a finger
23 at our police department. To make a comment that
24 things have gotten progressively worse is an accusation
25 that they haven't been doing their job. I've said it

R. Santanello

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1 before and I'll say it out. I live up by the boardwalk
2 in the summer, and I see that it got better every year
3 of the four years I lived up there. I have never felt
4 unsafe or in fear for my family. I will agree, though,
5 that for the first time, yes, this year is the worst
6 year ever. But, again, to blame what's going on on a
7 previous governing body and police force is just wrong.

8 And he insulted myself, Councilman
9 Cortes and Councilman Migut for favoring special
10 interests over the residents. I'm calling b.s. on that
11 one. That line is lifted directly from him.

12 Congrats, Mayor. You're now been
13 (indiscernible) success.

14 Just so everyone knows, we don't owe
15 anything to anybody. We aren't anybody's tools. We're
16 independent, thinking adults that don't apologize for
17 having our own opinion.

18 Then he insulted the owners of the
19 board business with his skin-in-the game comment.
20 That's the most ignorant comment and concept that I've
21 heard to date. It was ignorant when Barrella said it,
22 and it's ignorant now. To act like the board
23 businesses don't care who comes into town and what they
24 do is ridiculous. These are businesspeople running
25 businesses. Their demographic is for families coming

R. Santanello

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1 down and spending their money. Why would they
2 intentionally drive away the very people that they want
3 to attract? That would be stupid. And as a reminder,
4 they're not just the largest source of tax revenue for
5 Point Pleasant Beach, most of them live in town.
6 Again, why would they want to ruin their own town?
7 It's preposterous. But, yeah, let's demonize them
8 (indiscernible).

9 Let's take a look at this empty,
10 unconstitutional, unenforceable vague ordinance with
11 great flaws in the public access. I'll compare the
12 ordinance with what happens at Christmas time. You see
13 all the pretty Christmas trees with gift boxes in the
14 windows. But, if you go in and look closer, you'll
15 realize the trees are fake and the boxes are empty.

16 Number one, telling the businesses they
17 can operate and who they can hire as if the majority
18 of our governing board are simply (indiscernible), that
19 goes against everything our free society of capitalism
20 stands for. It is actionable (indiscernible) and we
21 could be sued over that. It violates the Public Trust
22 Document. We could get sued over that. Only those
23 over 18 can examine a cooler. Now, we're saying who
24 they can hire. The beach operator should be charged if
25 somebody sneaks out onto the beach. I guess no one up

R. Santanello

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1 here has ever gone to a college or a sporting event,
2 but to think that people won't buy a pair of binoculars
3 or empty out a water bottle and fill it with vodka or
4 dump out half the Gatorade and fill it with rum -- but
5 I suppose the checker is supposed to open every
6 container to smell for alcohol. It's overly burdensome
7 and we'll be sued over that.

8 Making loud noises to the annoyance of
9 another. It's vague, rude, unenforceable and
10 actionable, and we'll be challenged repeatedly. We
11 already have laws on the books for disturbing the peace
12 and disorderly conduct that can be used.

13 The cooler size, I've already
14 mentioned. This was tried already and shrinking it
15 further isn't going to make any difference. Those that
16 ignore history are doomed to repeat it.

17 Now, for those people who have said to
18 me we have to do something, I'll simply reply that
19 doing something that causes harm to our residents is
20 worse than supposedly doing nothing. My vote against
21 this is just a waste of papers, cost to our residents
22 of tens of thousands of dollars of legal fees for an
23 ordinance that won't stand up to legal challenges.
24 The only ones who win here are the attorneys.

25 Now, since the ordinance was passed on

R. Santanello

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1 the first reading -- which, by the way, means it's not
2 law yet, despite the Mayor's claim that it is --
3 there's been a full-court press by the Mayor to try and
4 make this an overwhelming victory for him. Despite
5 spitting in the face of Councilmen Cortes and Migut in
6 his Facebook post, he then sent them an email this past
7 week begging them to change their vote. Here's the
8 (indiscernible) of the email. (Indiscernible)
9 platform. I guess we're supposed to vote based upon
10 what social media says rather than our platform. But
11 let me be clear. I will never base a vote on the
12 opinion of the -- I guess I can just call them the
13 great uninformed rabble on Facebook. It's the place
14 where truth goes to die and everyone has an opinion no
15 matter how misinformed, and people with way too much
16 time on their hands start fights with each other.

17 I'll tell you this. I don't need
18 (indiscernible) affection, affirmation and accolades.
19 That's for people with low self-esteem and narcissism.

20 The beach operators are
21 (indiscernible). Well, surprise, surprise.
22 Organizations have contracts with the town that they
23 can lose if they buck the Mayor, and the
24 (indiscernible) to continue to operate are certainly
25 not going to argue. Nobody does anymore because they

R. Santanello

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1 know the Mayor will go after you on social media, and
2 he'll go after your family members if it doesn't work.

3 Number three, the (indiscernible)
4 businesses are not the ones that elected us. The
5 residents are. As I mentioned previously, they are
6 residents as well.

7 And then this is an historic turning
8 point for Point Pleasant Beach. It's nice to be able
9 to say you're on the right side of things. Well,
10 here's a little history lesson. The Mayor's hero,
11 Vinnie Barrella, tried the same divisive use against --
12 of us-against-them ordinance, all of which failed and
13 cost our residents hundreds of thousands of dollars in
14 legal bills.

15 In you want people to have, as you say,
16 skin in the game, why don't ask all those people that
17 -- that give you likes and comments on Facebook posts
18 to (indiscernible) to help defray the costs to our
19 residents.

20 So you have to ask yourself, why the
21 full-court press? It sounds like this is more about
22 the Mayor's public image than it is about what's best
23 for our residents. Make no mistake about it. This is
24 truly a made-for-Facebook ordinance, designed to get
25 the Mayor his 885 likes and 305 comments. He's already

R. Santanello

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1 got that. (Indiscernible) start doing everything on
2 social media again.

3 Now, to my fellow Members of Council
4 who intend to vote yes on this, I truly respect your
5 opinion, but I want to remind you of what I've said
6 before. Just because Riordan says it's legal, that's
7 just his opinion. It doesn't make it correct or
8 lawful, and only a judge can decide that no matter what
9 he's told you.

10 What I'm going to tell you, now, should
11 chill you to the bone. I've already stated repeatedly
12 that Riordan is a walking, breathing, conflict of
13 interest to residents as the Borough Attorney. He's
14 the head of the Republican Party in town and the
15 Committee Chair of the (indiscernible).

16 Over the last week, he has called
17 Councilmen Migut and Cortes to try to twist their arms
18 to get them to change their votes. And he tried it
19 again today with Councilman Cortes. So how could a
20 Borough Attorney actively advocate for an ordinance
21 that he is going to bill an obscene amount of money
22 from and through inevitable litigations? That goes
23 beyond politics. It goes beyond logic. It goes beyond
24 ethics and, in my opinion, is outright corruption.
25 He's here to give us legal advice, not to

R. Santanello

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1 (indiscernible) ordinance for his own enrichment.

2 Even worse, he told Councilman Cortes
3 that once he was done convincing him that he should
4 change his mind, that Andy should then call me and
5 pretend that on his own he wanted to ask me to change
6 my vote as well. He's encouraging a sitting Councilman
7 to lie to another sitting Councilman. That's just
8 despicable. And I'm horrified that he's entrusted with
9 such an important position.

10 Now, due to this unethical behavior,
11 I'm making a motion now that neither Riordan nor his
12 firm makes dime one for litigation tied to this
13 ordinance. My motion is that one of the other several
14 dozen firms who signed contracts this year should
15 handle this litigation. It's imperative that we have
16 representation that is unbiased, that doesn't have a
17 vested financial interest in the ordinance. Please
18 send a message that behavior like that is simply
19 unacceptable. Even if you agree with the ordinance,
20 you have to recognize the entire reason and motivations
21 behind it are suspect as well.

22 So I have a motion on the floor. Does
23 anybody want to second it?

24 COUNCILMAN CORTES: I'll second that.

25 MS. FARRELL: Please repeat what your

R. Santanello

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1 motion is for me.

2 COUNCILMAN SANTANELLO: My motion is
3 that the Riordan Law Firm are no longer involved in any
4 litigation that is involved in this ordinance.

5 MS. FARRELL: And you're speaking of
6 the Beach Ordinance, correct, Ordinance 2020-12?

7 MAYOR KANITRA: Can we just make a
8 motion as a governing body to dis -- you know, to
9 exclude the Borough Attorney who wrote the ordinance?

10 COUNCILMAN CORTES: Well, on Reorg. Day
11 I questioned why we had so many attorneys still listed
12 on the RFP, and to quote you, Mayor, I believe not
13 verbatim but you said, so we have a big pool of
14 attorneys to choose from if we need to. So we must
15 have enough attorneys that can litigate any -- any
16 issues that might come from this ordinance should it
17 pass tonight.

18 MR. RIORDAN: Folks, this is real
19 simple. There are no conflicts despite what Mr.
20 Santanello may say. Certainly, this is an issue that
21 could be discussed. But I have to object to the idea
22 that I be disqualified based on what -- based on what
23 Councilman Santanello said. And I would also suggest a
24 review should be on who's best able to defend this
25 ordinance, and I would suggest to you that that's my

R. Santanello

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1 firm.

2 COUNCILMAN SANTANELLO: Object --
3 objection noted, but there's a motion on the floor, and
4 Andy seconded it.

5 COUNCILMAN CORTES: I made the second.

6 MS. FARRELL: Councilman Vitale.

7 MAYOR KANITRA: Councilman Vitale, are
8 you there?

9 COUNCILMAN VITALE: Sorry.

10 No.

11 MS. FARRELL: Councilwoman Testa.

12 COUNCILWOMAN TESTA: No.

13 MS. FARRELL: Councilwoman Byrnes.

14 COUNCILWOMAN BYRNES: That's a no.

15 MS. FARRELL: Councilman Cortes.

16 COUNCILMAN CORTES: Yes.

17 MS. FARRELL: Councilman Santanello.

18 COUNCILMAN SANTANELLO: Yes.

19 MS. FARRELL: Councilman Migut.

20 COUNCIL PRESIDENT MIGUT: Yes.

21 MS. FARRELL: Mayor Kanitra.

22 MAYOR KANITRA: I see absolutely no

23 reason why the person who drafted this ordinance

24 (indiscernible) vote on it and why the Borough Attorney

25 who's been friends with Councilman Cortes isn't allowed

R. Santanello/T. Migut

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1 to talk with him. So I say no. I think that it's
2 ridiculous.

3 COUNCILMAN SANTANELLO: Okay. Well, it
4 failed. But I have to say four members of the
5 governing body are in favor of and encouraging and
6 approving of a Borough Attorney encouraging another
7 Councilman to lie to another one.

8 But I'm done, Mayor. Please free to
9 spin away.

10 MAYOR KANITRA: Actually, Councilman
11 Santanello, normally I go through a whole list of all
12 the reasons why your -- your ramblings were insane, but
13 I'll -- I'll just take a pass because I don't even want
14 to even (indiscernible).

15 Council President Migut, go ahead.

16 COUNCIL PRESIDENT MIGUT: Can you hear
17 me?

18 MAYOR KANITRA: Yep.

19 COUNCILMAN CORTES: Yes.

20 COUNCIL PRESIDENT MIGUT: Okay.

21 The Planning Board Meeting for August
22 has been cancelled.

23 The Parking Authority will meet
24 virtually on Thursday night.

25 Today the first cars were parked by

T. Migut

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1 downtown employees in the railroad lot under the
2 Employee Parking Pass Program. Thank you to Joe Leone
3 for being the first participant. We expect a second
4 large business to begin participation in a week or so.

5 The new fire truck has been ordered. I
6 worked about a week and a half ago with Christine Riehl
7 on the purchase order. It's been sent to Wisconsin to
8 the factory, and the factory has told the fire company
9 to go to their suppliers for things like engines and
10 transmissions being affected by COVID shut-downs. It
11 will take 12 months to build the new fire truck.

12 It was wise for the Council to approve
13 the \$5,000 repair to the old truck back in March
14 because, from the words of the fire company, the truck
15 would not have made it that long.

16 The Shared Services Agreement, Kevin,
17 could you get that to Christine by August 11th when she
18 comes back from vacation, do you think?

19 MR. RIORDAN: As I said to you last
20 time, Councilman, that's Gary's, and certainly you
21 should contact him and discuss it with him.

22 COUNCIL PRESIDENT MIGUT: Fine.

23 And, finally, finance. Councilman
24 Santanello mentioned my email to Christine Riehl. I
25 did send an email to her asking her to send -- prepare

T. Migut

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1 a memo to department heads regarding capital requests
2 for next year, that the requests be sent in earlier and
3 that they include a statement describing each item
4 that's requested as to what it is, what it does,
5 whether it's a new purchase or a replacement, and
6 ranking its need.

7 And that's all, Mr. Mayor.

8 MAYOR KANITRA: Thank you, Council
9 President.

10 Okay. And while I've been sitting
11 here, I just -- I can't -- I can't let what Councilman
12 Santanello said just go unchecked.

13 I mean, for the past seven months
14 during the pandemic and everything else, I've taken all
15 of your sarcasm, Bob, all of your lies, all of your
16 insane conspiracy theories. I've sat here and I've let
17 it roll off my back time and time again because I have
18 incredibly thick skin and because, luckily, there are
19 other Council Members up here who have had the backbone
20 to safeguard this town from you. But now you're
21 threatening the very fabric of our existence and Point
22 Pleasant Beach's future. And I -- I think I'm done
23 sitting back and staying silent.

24 You should be ashamed of yourself. You
25 too, Andy. You are literally trying to sell the town

1 out. All you two do is sit there every single Council
2 Meeting and act as bitter obstructionists and sore
3 losers. You don't do any work. You offer zero
4 solutions.

5 Bob couldn't even get the gazebo
6 painted which was the one task we asked of him all
7 year. You don't volunteer for lake clean-ups, downtown
8 clean-ups, art events, bonfires, nothing, which is no
9 surprise because throughout your terms you have barely
10 ever even showed up for your committee assignments.

11 Now, Bob is going to smile and try and
12 use his snarky laugh to dismiss it, but let me make
13 this abundantly clear for everyone on the line. We are
14 in this situation as a town because Andy and Bob have
15 been vegetables just sitting in their chairs, selling
16 the town down the road for years. Their lack of
17 attention to downtown is why there were a dozen
18 vacancies when we took office. It's why businesses let
19 their properties go to hell without any accountability.
20 It's why contractors have done shoddy work and
21 professionals as well.

22 Their allowing some private businesses
23 to do whatever they want is why we're now a spring
24 break destination with the most disrespectful tourists
25 that think they can get away with anything because Bob

1 and Andy have let them for years. You have literally
2 never said no to the boardwalk ever. How messed up is
3 that? How insane is that? That's not Republicanism.
4 That's not Libertarianism. It's being a crony, a
5 lackey and not having a spine to do what's right for
6 your fellow neighbors.

7 It doesn't mean you're antiboardwalk
8 for saying no once in a while and having a spine. It
9 doesn't mean you're a Vinnie Barrella worshiper either,
10 who I've never even talked to.

11 Bob, thank God you are retiring next
12 year. I actually like you as a person, but your
13 government legacy is going to reflect how little you
14 cared for anything other than letting everyone get away
15 with whatever they wanted and keeping this town from
16 realizing its full potential.

17 Now, that's said.

18 I want to thank the DPW for cleaning up
19 so quickly after the storm. While sections of town are
20 still without power, we were lucky to receive only a
21 glancing blow. And as Councilman Santanello mentioned
22 in -- in his report, I want to thank the over 1,000
23 people who reached out in support of the Beach and the
24 Boardwalk Ordinance. In all my years of government,
25 I've never seen such unanimously strong support for a

1 big issue like this from a group of constituents.

2 I want to thank all the beach operators
3 and lifeguard companies that have expressed their
4 support for the ordinance.

5 All but one (indiscernible) has
6 expressed support for what we're doing.

7 I'd also like to thank Carol Vaccaro
8 and the Chamber of Commerce for making the hard
9 decision to cancel the Seafood Festival. They put the
10 town and safety first and they're to be commended.

11 They're also requesting tonight that
12 streets be shut down downtown every Wednesday night,
13 and I'd like us to approve that contingent on what
14 Chief Michigan says when he comes back and the
15 realities associated with that so we can try and help
16 him out. It's mainly going to be taking place in the
17 fall after school starts.

18 In addition to that, we've been putting
19 together the Master Plan Subcommittee, and we have a
20 little bit of a meeting coming up here this coming
21 week. We're working on historic downtown ordinances as
22 well.

23 And I know that Councilman Santanello
24 also mentioned the revenue number. This is very clear.
25 Everything we speak about, this Council, is fact.

1 There was a deadline difference with ABC licenses
2 that's skewing 50,000 of it, and we budgeted \$200,000
3 less for parking because we made sure that we were
4 really conservative in our budget. So, really, at the
5 end of the day, we might be down \$100,000 from our
6 budget last year. And considering that people have
7 been coming on weekdays and that people have been
8 coming off-hours, we anticipate that, in my talks with
9 the Borough Administrator, who is not here tonight, to
10 make that up in August, September and even October when
11 people are going to continue to come to the beach even
12 when it's 50 and 60 degrees out as well.

13 I have a couple other things.

14 We have the Speaker Ordinance on the
15 agenda tonight. Not an ordinance, excuse me,
16 resolution for quotes for the police substation. We're
17 also going to put the flag up there and we're going to
18 do the National Anthem every morning. I think that
19 that's really important.

20 As mentioned, we've exchanged
21 correspondence with the DOT about the installation of a
22 crosswalk at 35 South and E Street. They're sending
23 out a survey crew and they should get back to us
24 shortly. Also, proceeding with additional signage at
25 35 South and Arnold and the block -- the block

1 installation that was mentioned previously in a
2 committee report.

3 There was a meeting with Enviroscapes
4 with the Borough Administrator and Kristen O'Rourke at
5 Lake of the Lillies. They have been researching
6 alternative aeration methods. I also sent them five
7 years of lake -- of lake treatment history so that we
8 can look at some different solutions to stopping the
9 algae blooms before they -- one of those things
10 involved something called hydroraking. And they did
11 state that the correct vegetation after the most recent
12 treatment looks great.

13 We ordered as a town another 75 feet of
14 balloon mat for the walkover at the Maryland Avenue
15 Beach. Some people have seen the white T that went out
16 on that intersection. The blue mat is necessary for it
17 to actually be wheelchair compliant because right now
18 we don't have enough blue mat from before to -- it was
19 zigzagged and it wasn't done.

20 The banners for downtown
21 (indiscernible) from yesterday. They're going to
22 becoming within the next week.

23 As Councilman Migut mentioned, the
24 employee parking passes for the railroad lot were
25 handed out this week.

1 The Ocean Ave. water main replacement
2 is underway. We have 50 percent planned. We're
3 working with our funding sources, and construction is
4 supposed to start in the spring of 2020. We'll send
5 letters out to and (indiscernible) alleys that may want
6 to take advantage of our project and enlarge their
7 water service while it's excavated and open.

8 The Storm Sewer Mapping Grant was just
9 finalized by the State. We'll be proceeding with
10 mapping and televising that as per the grant. We
11 accepted the quote from Jersey Shore Sprinkler System.
12 As Councilman Cortes mentioned, they'll be onsite this
13 week to start the project.

14 We're revisiting the kayak ramp
15 proposal for Lake Louise, not on Lake Louise itself but
16 on a street end around Randall, to see how viable that
17 is.

18 There's a large tree on the corner of
19 Central and St. Louis that has come at several
20 meetings, and we're suggesting a "Stop Sign Ahead" for
21 that location because you can't see traffic because the
22 tree is so big.

23 (Indiscernible) started yesterday. The
24 second starts next Monday. They're absolutely vital to
25 getting our work done that we need.

1 The tax rate was certified. The
2 fourth-quarter bills are being processed and will be
3 mailed shortly.

4 On the quality-of-life front, we have a
5 couple of different things here. Let's see.

6 The first thing is the newsletter.
7 That's being reduced to two pages. That will be done
8 within the next week and going out to the printer.

9 Offshore wind, we continue to monitor
10 that, and we're drafting three different sets of
11 comments to be submitted for public comment.

12 The Electronic Vehicle Charger Grant,
13 we had a meeting with -- with John Trout and an EV
14 charger electrician. It's scheduled for the coming
15 week to evaluate where that's going to be going.

16 The next (indiscernible) grant that I
17 mentioned at the last Council Meeting, that deadline is
18 August 10th. It's being submitted in just a few days.

19 And the pop-up shop program that I keep
20 mentioning, the inventory is finally completed and
21 collated (indiscernible) targeted shops and crafters as
22 well. We -- we left a message for the Chamber of
23 Commerce on landlord information, and we're looking to
24 finish that out. And we also need to recreate the
25 pop-up fee, which will be an ordinance, finish the logo

1 and the mission statement.

2 The Senior Committee, we have the
3 senior survey call with Katie York from Montclair to
4 understand how that town (indiscernible). It went
5 really well.

6 The Mayor's Health Campaign, we're
7 going to be targeting obesity, smoking, vaping,
8 drinking and mental health depression.

9 The bike racks that were mentioned
10 earlier, we have the town locations all mapped out
11 already.

12 And the census is coming to the farmers
13 market on (indiscernible). We'll hand out fliers and
14 enumerate on the spot. We also have Spanish language
15 literature that's going to be dropped off to our -- our
16 Spanish-speaking population and then disseminated
17 amongst them as well.

18 And, other than the, the Municipal
19 Alliance Grant amounts were calculated. We're going to
20 bring in, I believe, a total of \$3,000 from the County.
21 We did speak to a Point Committee member. That should
22 be on the next Council agenda as well.

23 That's it from me.

24 Eileen, I think Councilwoman Testa had
25 something.

1 COUNCILWOMAN TESTA: Yes. Yes.

2 I wanted to know if the basketball was
3 put on the agenda tonight for St. Peter's for the
4 basketball, like the girls have on Monday night for the
5 high school? I don't see it on there. Was it added?

6 MS. FARRELL: I have not received
7 anything about that.

8 COUNCILWOMAN TESTA: Oh, you haven't?
9 Because I was under the impression that it was going to
10 be on tonight.

11 COUNCILMAN VITALE: Is that Hoop Group?

12 MAYOR KANITRA: (Indiscernible)

13 COUNCILMAN VITALE: Is that Hoop Group?

14 COUNCILWOMAN TESTA: Yeah, Hoop Group.

15 MS. FARRELL: Oh, Hoop Group is on the
16 agenda.

17 COUNCILWOMAN TESTA: I didn't see it.
18 I apologize. Hoop Group --

19 MS. FARRELL: That's Item 1t).

20 COUNCILWOMAN TESTA: One t)?

21 MAYOR KANITRA: (Indiscernible)

22 COUNCILWOMAN TESTA: I'm sorry. What
23 is it?

24 MS. FARRELL: It's 1t) as in "Tom."

25 COUNCILWOMAN TESTA: Thank you so much.

1 MS. FARRELL: You're welcome. Sorry.

2 COUNCILWOMAN TESTA: That's okay. I
3 have my hard copy. I didn't -- I didn't look online.
4 So that's why.

5 Thank you.

6 MS. FARRELL: You're welcome.

7 MAYOR KANITRA: Eileen, are you done
8 with everything for the -- for the agenda?

9 There's no Administrator's report
10 because Christine is not here.

11 MS. FARRELL: Since the last -- since
12 the agenda was last posted, you'll notice on the
13 ordinances tonight, Ordinance 20-15 has been revised.
14 That was just reposted on the agenda page on the
15 website this evening.

16 Also, since it was originally posted,
17 we have the additions of Items 1s), 1t), 1u), 2e) and
18 2f). And we are adding to the agenda Item 1v), the
19 authorization to enter into a license agreement for 115
20 Arnold Avenue contingent upon building department
21 requirements.

22 That's it.

23 MAYOR KANITRA: Okay. We're ready for
24 first public participation.

25 Councilman Vitale, are you ready for

R. Moreau

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1 that, to unmute everybody?

2 COUNCILMAN VITALE: Yes.

3 Everyone could unmute themselves. And
4 remember star-six if you have a landline.

5 COUNCILMAN CORTES: And please remember
6 to mention your name and address.

7 MR. RIORDAN: And just let me remind
8 everybody that this is agenda items and ordinances on
9 first reading only. So this is not the ordinances on
10 second reading. I believe the only ordinance on first
11 reading is the -- the Skateboard Park Ordinance.

12 COUNCILMAN CORTES: Correct.

13 MR. MOREAU: Hello.

14 MAYOR KANITRA: Hello.

15 MR. MOREAU: Yeah, hi.

16 This is Rob Moreau.

17 MAYOR KANITRA: Dr. Moreau, how are
18 you?

19 MR. MOREAU: Just fine. How are you,
20 Mayor?

21 MAYOR KANITRA: Good, thank you.

22 MR. MOREAU: So how do we speak to a
23 second reading agenda? Do we get to speak to that
24 before it is --

25 COUNCILMAN CORTES: Yes.

R. Moreau

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1 MR. RIORDAN: Yes. The -- the
2 ordinance has a second reading that will be open to the
3 public later on in the agenda.

4 MR. MOREAU: Perfect. Thank you.

5 I'd like to ask about the -- the
6 payment to the psychologist for \$10,500 for 21
7 policemen. That means that each of the policemen had
8 ten hours of psychological counseling or testing. Is
9 that correct??

10 MAYOR KANITRA: Captain, I know you're
11 on the line.

12 My understanding is that every single
13 police officer that comes in needs to undergo a
14 psychological evaluation. And that's standard process
15 for the state.

16 Captain, do you have anything to add?

17 CAPTAIN: That's correct. That was for
18 the new employees, some of them that went to the police
19 academy. There's an initial screening that they're
20 screened and -- and they see the psychologist. They go
21 to medical appointments and -- and -- and -- and, you
22 know, stress tests and stuff like that. That's part of
23 the screening to go to the police academy and to become
24 a police officer, yes.

25 MR. MOREAU: But it seems that the

R. Moreau

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1 psychologist for 21 was -- we're -- we're paying --
2 Point Pleasant Beach is paying a psychologist ten times
3 the going rate.

4 CAPTAIN: Per candidate -- it's \$500
5 per candidate.

6 MR. MOREAU: So that -- that means ten
7 hours of work, Captain. Is that correct?

8 CAPTAIN: Excuse me?

9 MR. MOREAU: Then that would mean ten
10 hours of work on the psychologist's part per candidate.
11 Is that what -- what you see as happening?

12 CAPTAIN: No, that -- that is
13 incorrect. I don't if the -- the number is there with
14 the 21. We sent 30 -- 31 candidates to the
15 psychologist.

16 MR. MOREAU: Okay. It says 21 on
17 the --

18 CAPTAIN: Yeah, I do see that.

19 MR. MOREAU: -- agenda.

20 CAPTAIN: Yep.

21 MR. MOREAU: Okay. I -- I just --
22 maybe -- I don't know how we'd look into that but that
23 -- the average psychologist rate is (indiscernible) an
24 hour. So if -- if -- if they're just getting an hour,
25 they're getting charged -- we're getting charged, as

R. Moreau

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1 taxpayers, \$500 an hour.

2 CAPTAIN: Yeah. I don't know the exact
3 amount of time they spend on each candidate. That does
4 vary.

5 MR. MOREAU: Can you find out?

6 CAPTAIN: Absolutely.

7 MR. MOREAU: Thank you.

8 Also, re -- regarding the \$10,000 for
9 45 Glocks -- Glock 45's, excuse me, that means there's
10 10 Glocks that you're purchasing?

11 CAPTAIN: I can't see the -- the -- the
12 -- I can't see the whole thing there. Okay. That is
13 for equipment. That was for belts, duty belts for the
14 officers and --

15 MR. MOREAU: Which are -- which are 30
16 to 50 dollars each . And Glocks run from between 400
17 to 700 dollars per Glock. So I'm just wondering how do
18 we get to \$10,000?

19 CAPTAIN: Okay. Well, it says for 45
20 Glocks, belt keepers, cuff cases, etc. So I'd have to
21 look at obviously the -- the invoice itself.

22 MR. MOREAU: Well, how many Glocks are
23 we purchasing?

24 CAPTAIN: That isn't for the weapons.

25 MR. MOREAU: Say what?

R. Moreau

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1 CAPTAIN: It's for equipment. That's
2 for -- that's for holsters, belt -- belt keepers, cuff
3 cases, and, like I said, it says et cetera, so I'd have
4 to look at the whole --

5 MR. MOREAU: Yeah. We really need to
6 see the et cetera, et cetera before we vote on this
7 because, like I say, a belt keeper costs about 50
8 bucks. A cuff case is 20 tops, and the Glocks
9 themselves are 4 to 700 dollars. So \$10,000 is a lot
10 of et cetera.

11 CAPTAIN: Right. We -- we didn't order
12 45 belts. We ordered 75 of each of those and --

13 MR. MOREAU: Seventy-five?

14 CAPTAIN: Yes.

15 MR. MOREAU: How many police do we
16 have?

17 CAPTAIN: We have approximately 35
18 Class 2 Officers, and we have about 30 Class 1
19 Officers.

20 MAYOR KANITRA: Excuse me. Can I ask
21 the Borough Attorney -- excuse me, Kevin. Does -- does
22 the Captain need to be interacting in the -- in the
23 comment or that just a courtesy?

24 MR. RIORDAN: That's up to the Mayor
25 and Council as to whether or not they would like the --

R. Moreau

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1 like the Captain to be answering these questions.

2 One option, of course, is to ask that
3 the -- that the questioner and the Captain have this
4 discussion at another time.

5 MR. MOREAU: Well, that's not possible
6 because we're voting on putting this money out, Kevin.

7 MAYOR KANITRA: You have to understand
8 too that tactical equipment is more expensive than the
9 equipment that you and I would buy because it's
10 ruggardized and it has --

11 MR. MOREAU: I went on the website. I
12 went on Atlantic Tactical's website for these things,
13 Paul.

14 MAYOR KANITRA: Okay.

15 MR. MOREAU: So --

16 MAYOR KANITRA: Do we have an itemized
17 -- is there not an itemized receipt, Captain?

18 CAPTAIN: Oh, yes, there is. I'd have
19 to speak to the -- to the secretary and -- and get
20 that. I don't have that on me right now.

21 MR. MOREAU: (Indiscernible) being able
22 to be looked at.

23 MR. RIORDAN: Mr. Mayor, it was looked
24 at. It's part of the packet for the Councilmen.

25 MAYOR KANITRA: Hold on. Give me one

R. Moreau

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1 second and I'll put it up.

2 MR. RIORDAN: I'm pretty sure.

3 What's the -- what's the agenda item?

4 MAYOR KANITRA: It's -- Doug, you're
5 scrolling -- oh, you're going through the --

6 MS. FARRELL: It's Item 2c).

7 MR. RIORDAN: Thank you, Eileen.

8 MAYOR KANITRA: Eileen, do you have the
9 form that --

10 MS. FARRELL: I have the invoice that
11 goes with the purchase order. It's several pages. Let
12 me see.

13 MR. RIORDAN: It's part of the packet,
14 right, Eileen?

15 MS. FARRELL: It is part of the packet,
16 yes.

17 Let's see.

18 It looks like -- I mean, I don't know
19 what a lot of this stuff is. Belts, cuff, mace,
20 Glock. You know, I don't know what -- what any of
21 this is.

22 MR. MOREAU: Okay. Has anyone on the
23 Council or the Mayor looked at this -- looked at this
24 invoice?

25 MAYOR KANITRA: I reviewed the -- I

R. Moreau

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1 reviewed the package just like everybody else, I
2 assume.

3 COUNCILMAN VITALE: I reviewed the
4 package as well.

5 COUNCILMAN CORTES: We look over the
6 packet and --

7 MAYOR KANITRA: I didn't memorize the
8 number of belts and -- and pieces and everything. I
9 mean, it was itemized in our packet.

10 MR. RIORDAN: And it was probably
11 reviewed by the Police Committee, depending upon what
12 they were able to do in light of the pandemic.

13 COUNCILMAN VITALE: Right.

14 MR. RIORDAN: Okay. There was --

15 MR. MOREAU: These numbers just seem
16 out of whack to me. And I apologize for that. In the
17 agenda it seems like we're buying a -- a single Glock.
18 And, you know, 10,500 is just a lot of money. I
19 appreciate if that was opened to the public.

20 MAYOR KANITRA: I don't know what the
21 practice is on that, Rob. Sorry. But I know that I
22 looked over it, and I'm sure my fellow Council Members
23 did. And when I looked at it, nothing seemed out of
24 whack to me. It's, like, a big order. It's definitely
25 a big order but I assume that that was because they

R. Moreau

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1 were buying (indiscernible) too.

2 COUNCILMAN CORTES: Forty-five Glock,
3 17 Algins (phonetic) right hand. Seventy-five --

4 CAPTAIN: That's referring to the
5 holsters, sir.

6 COUNCILMAN CORTES: Okay. This is
7 Councilman Cortes.

8 Seventy-five patrol tech belt keepers,
9 seventy-five nylon duty belts, seventy-five cuff cases,
10 mace holders, forty-five molded double mag pouch.

11 Okay.

12 MR. MOREAU: Councilman Cortes.

13 COUNCILMAN CORTES: Yes.

14 MR. MOREAU: How many shootings have we
15 had in Point Pleasant Beach?

16 COUNCILMAN CORTES: It's not a matter
17 of that. I understand what you're saying, but they do
18 have to possess a weapon and they do have to train from
19 what I understand.

20 MAYOR KANITRA: Dr. Moreau, we've hit
21 -- we've hit a three-minute limit for you.

22 MR. MOREAU: All right.

23 MAYOR KANITRA: And I wish they
24 (indiscernible). They're pulling knives and guns off
25 of people in other shore towns, and I certainly would

M. Steiner

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1 not want to be not prepared.

2 So I'm sorry, but thank you very much.

3 Who's next?

4 MS. STEINER: Mary Steiner.

5 Hello.

6 MAYOR KANITRA: Yes, Mary.

7 MS. STEINER: Mary Steiner, 423 Yale
8 Avenue.

9 And I have some questions about the
10 skateboard park.

11 Who is going to be opening it and
12 closing it? Who is going to be supervising to make
13 sure the rules are being adhered to? And, most
14 importantly, in the ordinance I do not see anything --
15 the Mayor and I were down there and two children asked
16 whether we could -- they could have BMX bikes, regular
17 bikes and scooters in the skateboard park so...

18 MAYOR KANITRA: That's a -- that's a
19 good question for the Borough Attorney.

20 Have we specifically outlawed those
21 kinds of things at the skateboard park?

22 MR. RIORDAN: Well, at the present time
23 it says it's a skate park, so we're talking about
24 skateboards. If somebody thinks those things should be
25 permitted, then that -- the ordinance could be altered

M. Steiner

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1 to allow them. At the present time, they're not
2 allowed.

3 MAYOR KANITRA: Can we -- could we make
4 a motion for this -- for this meeting?

5 MR. RIORDAN: This is -- this ordinance
6 is on for first reading. So if you guys wanted to make
7 changes to it like that to allow those kinds of -- of
8 vehicles, that could certainly be done. You might want
9 to get input from the Rec. Committee on it. They,
10 after all, are the ones who are -- to answer the first
11 part of the question -- are mostly in charge of some of
12 the procedures and enforcement, although the
13 Administration is in charge of the Rec. Committee, and
14 the police department will have a hand.

15 MAYOR KANITRA: Mrs. Steiner, I -- I'm
16 happy to have Councilman Vitale, who is the head of the
17 Rec. Committee and who's been working -- working on
18 this project to -- to look into. You know, I'm -- I
19 don't think that that's something that even the
20 skateboard community would be (indiscernible). Nobody
21 wants it getting messed up. Would you be okay if we
22 looked at that and added it as an amendment possibly at
23 the next reading?

24 COUNCILMAN VITALE: Sure, I'll take a
25 look.

M. Steiner

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1 COUNCILMAN CORTES: If -- if that's the
2 case, this is on for first reading. If we hold it,
3 then you can make some adjustments.

4 Correct, Mr. Riordan?

5 MR. RIORDAN: Absolutely. And somebody
6 correct me if I'm wrong because I -- I have lost my
7 enthusiasm for watching the Governor, not through any
8 fault of his, other than, you know, it just got to be
9 too much. But I don't believe that he has yet allowed
10 the type of activity that would be a skateboard park.

11 Does anybody know if I still have that
12 right?

13 COUNCILMAN SANTANELLO: I'm not sure.
14 This is Councilman Santanello.

15 But I do want to say that I would be
16 against adding other types of equipment onto the
17 skateboard park. Now, I want to make sure that I
18 understand. We're not talking about adding BMX bikes,
19 are we?

20 MR. RIORDAN: That's what I believe the
21 suggestion was, Councilman.

22 COUNCILMAN SANTANELLO: Well, I would
23 be against that. I mean, it's a skateboard park. If
24 you're talking about BMX bikes, they cause a lot more
25 damage than a skateboard does. And the thought of

M. Steiner

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1 having BMX bikes flying through the air next to kids
2 that are on skate parks -- skateboards, I would be
3 totally against.

4 MR. RIORDAN: And I know this is going
5 to shock the Councilman, but I actually know absolutely
6 nothing about what you're talking about which is why I
7 suggested it be referred to the Rec. Committee.

8 MAYOR KANITRA: If -- if everybody's
9 fine with it, I don't know if there's anybody up here
10 that wants (indiscernible).

11 COUNCILMAN CORTES: My issue is we
12 introduce --

13 A FEMALE VOICE: (Indiscernible)

14 COUNCILMAN CORTES: -- it tonight and
15 then we make changes, we're going to have to
16 reintroduce it again. So do we hold it again? I know,
17 Bob, we've held it once before. Do we hold it again,
18 make changes and then introduce or what? What's your
19 pleasure?

20 COUNCILMAN SANTANELLO: Well, can
21 everybody -- can everybody else chime in. Do you -- do
22 you think we should add these things because I don't.
23 I think it should be skate -- skateboards only.

24 MAYOR KANITRA: You're not hearing it
25 correctly.

M. Steiner/V. Castin

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1 Mrs. Steiner and I were --

2 MS. STEINER: Excuse me, everybody.

3 Everybody. My question was, if you only want
4 skateboards allowed it should be put in the ordinance
5 that you're banning everything else, BMX bikes and
6 scooters. That was my question.

7 MR. RIORDAN: While I appreciate that
8 comment, ladies and gentlemen, it is unnecessary. As
9 written the ordinance bans them.

10 COUNCILMAN SANTANELLO: Okay. Thank
11 you.

12 MAYOR KANITRA: Okay.

13 MR. CASTIN: Okay. I'm next.

14 MAYOR KANITRA: Okay. Who's that?

15 MR. CASTIN: Me, Cousin Vinny.

16 Can you hear me?

17 MAYOR KANITRA: Yeah. Go ahead.

18 Say your address and get going.

19 MR. CASTIN: Oh, 15 Trenton, Point
20 Pleasant Beach.

21 Okay. A couple of things.

22 One f) that -- I'm not sure I
23 understand that surface thing. Maybe Andy, Mr. Cortes,
24 can help me out. Is that -- is that a -- a fixed piece
25 that's going on there or is that --

V. Castin

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1 COUNCILMAN CORTES: I will help you
2 with that.

3 That is a fixed piece that will be
4 contoured to the shape of the playground, which I still
5 believe the border is rectangular and will be cut
6 around whatever holes are supporting the equipment.
7 And it is an approved mat. You either have to have
8 that or some granularized rubber, certain rubber or
9 certain play sand. And we all know with wind and just
10 a normal high tide, you know, and even a storm, the
11 sand has been coming over mixing in, regular beach-type
12 sand mixing in with the play sand. It had to be
13 removed and new sand put in. We've done that, oh, more
14 than, I don't know, a half a dozen or more times since
15 it's been done. So this -- this is approved by
16 whatever, playground equipment, you know, companies,
17 and our insurance company, the JIF. You have to have a
18 soft material under any playground equipment. But it
19 is fixed, yes.

20 MR. CASTIN: Oh, it's going to be -- it
21 won't -- when that water from the inlet washes over,
22 that's not going to take that away?

23 COUNCILMAN CORTES: No, it's not. From
24 what I understand it's not going to --

25 MR. CASTIN: Okay.

V. Castin

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1 COUNCILMAN CORTES: If any sand gets on
2 it, they can just take the -- the blowers that they
3 use, you know, landscaping-type blowers, and just blow
4 the sand off of it, and it's good to go. We don't have
5 to purchase sand and spend the time down there removing
6 the old sand and putting new sand in.

7 MR. CASTIN: Okay.

8 COUNCILMAN CORTES: I don't know. I
9 grew up playing on rocks and metal sliding boards. You
10 learn from mistakes.

11 MR. CASTIN: I played stick ball on
12 tarred streets. How does that sound?

13 COUNCILMAN CORTES: There you go.

14 MR. CASTIN: One e), we're paying flood
15 insurance for 1000-1002 Ocean Avenue. Where -- where
16 is that?

17 COUNCILMAN CORTES: That would be --
18 1000? Well, if 900 Ocean Avenue is the end of New
19 Jersey, the condos, then 1000 and 1002 has to be the
20 bathhouse that has the Food Shack in it.

21 MR. CASTIN: That's our property?

22 COUNCILMAN CORTES: Yeah, that -- that
23 bathhouse. Yeah. And the -- you know, the concession
24 stand, the old -- you know, the Risdens bathhouse. We
25 own them.

V. Castin

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1 MR. CASTIN: Oh, okay. That -- that
2 one down there. Okay.

3 MR. CORTES: Huh-huh.

4 MR. CASTIN: Yeah, got it.

5 Okay. Real quick. On the 2d), I'm not
6 -- I'm not going to get into that because I think it's
7 been covered, the tactical stuff and all that.

8 And to go along with that, open system
9 integrators for the police station sound system, what
10 exactly are those? What's an open system integrator?

11 COUNCILMAN CORTES: The Mayor is going
12 to have to handle that, you know.

13 MAYOR KANITRA: Can you go to the
14 number, Doug. Where are we talking about?

15 COUNCILMAN VITALE: Two f). It's on
16 the screen.

17 MAYOR KANITRA: Two f) is the open
18 system integrators. That's the speakers or on the
19 boardwalk for the National Anthem and for telling our
20 visitors of our ordinances and the fines.

21 MR. CASTIN: Oh, oh, okay. Okay.

22 And on the boardwalk, I know there's no
23 smoking up there now, but I think you ought to take a
24 look at this, Mr. Mayor. The largest "No Smoking"
25 signs should be on the boardwalk access ramps and also

V. Castin

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1 larger cigarette dispense containers as opposed to
2 those little, tiny one there. It might help people to
3 see it and put their cigarettes out before they get up
4 there. I think we've had them before.

5 MAYOR KANITRA: And, Vince, just so you
6 know, we are making metal signs that are going to
7 attach to the railing of the boardwalk right next to
8 every access point, but they're not going to be ready
9 till next season, and they're going to clearly state
10 what our rules are. They're going to be graphically
11 pleasing so that people just don't glaze over them.

12 Okay, Vince, back to --

13 MR. CASTIN: Good Okay.

14 MAYOR KANITRA: Thank you.

15 Next?

16 MR. CASTIN: Now, wait, wait. This is
17 not a question. This is a statement, and I'd like to
18 be clear on this. I heard dissertation between
19 yourself and Mr. Santanello. And I'd like to say that,
20 as we all know, the Council is there to work together
21 as a team. We've all played sports. I have and I know
22 you guys have. You don't love everybody there, but the
23 goal is the same for everybody, to win. And I think,
24 you guys, should maybe shake hands a little bit. And,
25 everyone, you've got to agree to disagree. But I think

V. Castin/D. Cavagnaro

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1 for the -- for the benefit of the town and -- and for
2 the (indiscernible) itself, I -- I think you guys out
3 to maybe get together, have a beer or something,
4 because I love you both. I think you're both bright,
5 intelligent guys. But you can't miss -- you can't miss
6 to get together on that.

7 MAYOR KANITRA: Thank you, Vince.

8 COUNCILMAN SANTANELLO: Appreciate it,
9 Vince.

10 MAYOR KANITRA: Okay. Who's next?

11 MR. CAVAGNARO: Dave Cavagnaro, 118
12 Parkway.

13 MAYOR KANITRA: Councilman, go ahead.

14 MR. CAVAGNARO: Good evening, everyone.
15 Two quick things, I hope.

16 Mayor, I'm not sure. Did you reference
17 a tree on Central and St. Louis by a stop sign? And,
18 if so, what was the comment because I think I missed
19 it?

20 MAYOR KANITRA: Yes. Let me just pull
21 up all my notes. It's come up at meetings in the past
22 that it's apparently too large so we're working on a
23 "Stop Sign Ahead" sign so people can (indiscernible).

24 MR. CAVAGNARO: Okay. I heard that
25 before. I just -- I thought there was something

D. Cavagnaro

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1 changing. But, okay, good. Thank you.

2 And I understand that the skateboard
3 park as changed very recently. What changes occurred
4 from the first reading?

5 MAYOR KANITRA: I believe the only
6 change was the concept of displaying versus having
7 permits (indiscernible) because we're looking at a pink
8 board permit and an electronic app. And this would
9 allow for that where it isn't necessary that
10 (indiscernible).

11 Is that correct, Councilman Vitale and
12 Kevin?

13 MR. RIORDAN: In addition, I believe
14 the opening hours were changed from 10 a.m. to 8 a.m.,
15 and the COVID-specific sections of the ordinance were
16 moved to a section of the ordinance which references
17 the public health emergency and has them in place only
18 during public health emergencies as declared by the
19 Point Pleasant Beach Office of Emergency Management. I
20 think I've got them all.

21 COUNCILMAN SANTANELLO: There was one
22 more that we talked about. How it's only a sticker
23 with just the permit number rather than personal
24 information.

25 MR. RIORDAN: Right. And that's the

D. Cavagnaro

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1 change that was made this afternoon.

2 COUNCILMAN SANTANELLO: Correct. No
3 further ones were made --

4 COUNCILWOMAN TESTA: It's also the
5 amount of -- the amount of skaters that are allowed in
6 there or am I wrong?

7 MR. RIORDAN: No, very -- you're right,
8 Councilwoman. It makes it 13.

9 COUNCILWOMAN TESTA: Thank you.

10 MR. CAVAGNARO: Thanks for the
11 information.

12 MAYOR KANITRA: Okay. Thank you, Dave.
13 Who's next?

14 Okay. All right. Unless there's
15 anybody else, can I get a motion to close public
16 participation and adopt the consent resolutions?

17 COUNCILWOMAN TESTA: I motion for the
18 closed public session.

19 COUNCILMAN VITALE: I'll second that.

20 COUNCILMAN CORTES: Is that just to
21 close public? Be specific.

22 MS. FARRELL: That -- was that motion
23 to close and adopt?

24 COUNCILWOMAN TESTA: Yes.

25 MS. FARRELL: Councilman Vitale.

1 COUNCILMAN VITALE: Yes.

2 MS. FARRELL: Councilwoman Testa.

3 COUNCILWOMAN TESTA: Yes.

4 MS. FARRELL: Councilwoman Byrnes.

5 COUNCILWOMAN BYRNES: Yes.

6 MS. FARRELL: Councilman Cortes.

7 COUNCILMAN CORTES: I'm going to vote
8 no on 1m) and 1d) as in "David," yes on everything
9 else.

10 MS. FARRELL: So that's no on 1m) as in
11 "Mary" and 1d) as in "David."

12 COUNCILMAN CORTES: Correct.

13 MS. FARRELL: Council -- Councilman
14 Santanello.

15 COUNCILMAN SANTANELLO: Okay. So no on
16 1d) as in "David," no on 1m) as in "Mary," no as 1p) as
17 in "Peter," and then abstain on 2c), d), e) and f).

18 MS. FARRELL: Okay. So that's 2c), d),
19 e) and f)?

20 COUNCILMAN SANTANELLO: Two c) as in
21 "Charlie, d) as in "David," e) as in "Edward," f) as in
22 "Frank."

23 MS. FARRELL: Okay.

24 COUNCILMAN SANTANELLO: And yes to
25 everything else.

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1 MS. FARRELL: Councilman Migut.

2 COUNCIL PRESIDENT MIGUT: Yes but
3 abstaining as necessary on 2a).

4 MS. FARRELL: Okay. All right.

5 We have a couple of ordinances on for
6 second reading.

7 The first ordinance is Ordinance 2020-
8 12, An Ordinance Of The Borough Of Point Pleasant
9 Beach, Amending Chapter XXI, Beaches, Of The Revised
10 General Ordinance Of The Borough Of Point Pleasant
11 Beach.

12 MAYOR KANITRA: Okay. I'm going to
13 open it up for public participation. If there's
14 anybody on this one.

15 Doug, can you scroll up. Thank you.

16 MR. CASTIN: What are the changes? I
17 don't have a copy of that.

18 MAYOR KANITRA: Kevin, would you like
19 to replay the changes for Vince?

20 MR. RIORDAN: Well, no, no, no. The
21 -- the ordinance in -- this is an ordinance on second
22 reading, so there are no changes. This is the same
23 ordinance that was read the last time.

24 MR. GASIOROWSKI: We -- we actually do
25 have a comment about the ordinance.

R. Gasiorowski

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1 MS. FARRELL: Please give your name and
2 add -- your name and address.

3 MR. GASIOROWSKI: Good evening.

4 Can you hear me?

5 MAYOR KANITRA: We can hear you.

6 MR. GASIOROWSKI: My name is Ron
7 Gasiorowski.

8 I'm an attorney with an office in Red
9 Bank, New Jersey, and I represent the Storino Family
10 who are the primary owners of all of the
11 (indiscernible) property which I believe is referred to
12 in the ordinance which is being considered this
13 evening.

14 I wrote an email to the Mayor, to the
15 -- Mr. Riordan as well as the Members of the Council
16 and I'd like to know whether or not you've all received
17 it.

18 COUNCILMAN CORTES: Yes.

19 MR. GASIOROWSKI: I'm sorry?

20 MAYOR KANITRA: Yes, we received it and
21 we also received a memo from the Borough Attorney
22 afterwards.

23 MR. GASIOROWSKI: Was that memo emailed
24 to me because I didn't see it?

25 MAYOR KANITRA: No, it was just for the

R. Gasiorowski

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1 governing body, actually.

2 MR. GASIOROWSKI: Okay, fine.

3 Rather than go through the letter which
4 I think is self-explanatory, I'd like to raise a couple
5 of questions with comments that were made this evening,
6 particularly, by the Mayor after Councilman Santanello
7 spoke.

8 You know, I think the words "cronyism"
9 and "lackey" are, in fact, pejorative and would
10 indicate that if, in fact, a Council Member is
11 practicing cronyism or was serving as the lackey for
12 someone, they'd be doing it in conjunction with another
13 person who is not --

14 MAYOR KANITRA: I have a question for
15 the Borough Attorney, if you don't mind. Excuse me for
16 one second.

17 Excuse me, Kevin, Borough Attorney,
18 considering that the gentleman on the line has
19 threatened in public comment and letter a lawsuit
20 against the Mayor and the Council, should I even be
21 responding to any of this or would that basically be
22 like some sort of cross-examination or something like
23 that? It would seem like it veers away from normal
24 public comment.

25 MR. RIORDAN: In -- in general, I would

R. Gasiorowski

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1 -- I would recommend that Mr. Gasiorowski be permitted
2 to speak, but I would encourage all members of the
3 governing body to not answer any questions. Litigation
4 is likely. And at that point there will be time to
5 answer questions in a different forum.

6 MAYOR KANITRA: Great. Thank you very
7 much.

8 MR. GASIOROWSKI: Well, at this public
9 forum -- at this public forum, the Mayor specifically
10 accused Council Members of cronyism and serving as a
11 lackey for certain interests. I want to know who he
12 was referring to, as to whose interests they were
13 serving, who were they cronies with and who were they a
14 lackey to?

15 MR. RIORDAN: No, I'm going to direct
16 him --

17 MR. GASIOROWSKI: He raised that in his
18 vitriolic comments this comments and he should be man
19 enough to answer them.

20 MR. RIORDAN: And I'm going to direct
21 him not to answer it.

22 Thank you.

23 MR. GASIOROWSKI: On what basis?

24 MAYOR KANITRA: This isn't a courtroom.
25 This is our Council Meeting.

R. Gasiorowski

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1 MR. GASIOROWSKI: This is not a
2 courtroom, but this is a public hearing of a public
3 body, and at this public meeting which is being
4 broadcast you have impugned -- impugned the reputations
5 of members of this community, which at this particular
6 time is unknown. Now, clearly, you were referring to
7 specific people. Be man enough to tell us who you were
8 referring to.

9 MR. RIORDAN: There will be a time and
10 a place for that, Mr. Mayor. This isn't it.

11 MR. GASIOROWSKI; Well, isn't this a
12 matter of public knowledge for today? Are -- aren't
13 the citizens of Point Pleasant Beach entitled to know
14 who he's accusing of something?

15 MR. RIORDAN: Mr. Gasiorowski, if you
16 have no more comments on the ordinance, we can move on.

17 MR. GASIOROWSKI: I have further
18 comment. Please don't cut me off. This is a very
19 important matter.

20 MR. RIORDAN: All right. Then move on
21 to the ordinance.

22 MR. GASIOROWSKI: The Mayor also said
23 that ceratin actions were destroying the fabric of the
24 community. Who was he referring to?

25 MR. RIORDAN: Mr. Gasiorowski, I'm not

R. Gasiorowski/R. Moreau

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1 going to ask you again. Move on to the ordinance or
2 we're going to move on to somebody else.

3 MR. GASIOROWSKI: Move on to the
4 ordinance? Well, I've stated my opinions quite
5 clearly. What I really find troubling -- what I really
6 find troubling are the accusations of a Mayor in his
7 public comments which, as far as I'm concerned, have
8 been harmful to my client. Let him say specifically
9 what it is that they are doing that is wrong.

10 MR. RIORDAN: Mr. Gasiorowski, you have
11 threatened to sue the Mayor and the governing body.
12 I'm going to ask them not to answer your questions
13 unless and until we get to that forum.

14 Thank you.

15 MR. GASIOROWSKI: Let's make one thing
16 very clear. This is not a threat.

17 MR. MOREAU: May I speak regarding the
18 ordinance?

19 MAYOR KANITRA: Who is that? My -- my
20 screen froze a little bit. Who's that?

21 MR. MOREAU: This is Rob Moreau, 208
22 River Avenue.

23 MAYOR KANITRA: Sure, Dr. Moreau. Go
24 ahead.

25 MR. MOREAU: Thank you.

R. Moreau

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1 I -- I -- I just think that this
2 ordinance is incredibly broad, and one of the
3 statements says if anybody right next to you is
4 bothering you, that's not acceptable. And, of course,
5 this is going to initiate court proceedings.

6 MAYOR KANITRA: Dr. Moreau, that's not
7 accurate. I -- I have to correct you there. I'm so
8 sorry.

9 It's -- it's basically saying if you're
10 playing -- if you're playing your music so loudly that
11 you're disturbing someone else, that that's not
12 allowed.

13 MR. MOREAU: That's not the way it's
14 written, Paul, honestly. Look at it, please. There's
15 such -- I could give you the letter of it, but it is so
16 broad that it's just -- it's not that specific. I wish
17 it were.

18 MR. RIORDAN: Let me interrupt for just
19 a second, Doctor.

20 MR. MOREAU: Yeah.

21 MR. RIORDAN: The section of the
22 ordinance that you're talking about --

23 MR. MOREAU: Yeah.

24 MR. RIORDAN: -- is borrowed from an --
25 from the ordinance that's been -- has been in effect

R. Moreau

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1 and has been being enforced on the Maryland Avenue
2 Beach for over a decade, and that ordinance is mod --
3 is modeled on what Seaside Park, Seaside Heights and
4 virtually every town up and down the shore has in their
5 ordinance. So those sections of the ordinance are not
6 really what Mr. Gasiorowski has a problem with or --

7 MR. MOREAU: I don't care about Mr.
8 Gasiorowski. I care nothing about that.

9 It honestly is -- the fact that it is
10 so broad that a person could say you're bothering me
11 and it would have to, under this ordinance, it would
12 have to be enforced by the police.

13 MR. RIORDAN: That's not the way that
14 ordinance has been enforced down the Jersey Shore for
15 more than a decade. I'm sure that's not the way it
16 will be enforced in our town.

17 MR. MOREAU: But you're memorializing
18 it as such. Now, you can say that it won't be enforced
19 that way, but you're legalizing the enforcement of it.
20 So that -- that's just not the case, Kevin.

21 MR. RIORDAN: Doctor, that's not what
22 the ordinance says. I don't practice veterinary
23 medicine. You shouldn't tell me what the ordinance
24 says.

25 MR. MOREAU: I can -- I can read

R. Moreau

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1 English, Kevin. And it says that if you're bothering
2 somebody, you can -- and you've also memorialized that
3 the police will be enforcing this -- you can ask the
4 police to come over and stop somebody from bothering
5 you.

6 MR. RIORDAN: Can you show me where
7 that is, Rob? I'm sorry, I don't see that anyway.

8 MAYOR KANITRA: Read the -- read the
9 section.

10 MR. MOREAU: I am so sorry. I don't
11 have it in front of me.

12 MAYOR KANITRA: Because that -- it's
13 not what it says. I -- I wrote it along with Kevin,
14 looked at it with Kevin, and it definitely is very
15 clear about --

16 MR. MOREAU: It's one of the last
17 sentences right before you create the Beach
18 Municipality or Municipality Beach.

19 Anyone, let me just say one other
20 thing, and then I'll move on.

21 If Mr. Riordan is advocating, as Mr.
22 Santanello says, for passage and is being behind the
23 scenes -- being an advocate for this ordinance and that
24 was true, that requires you guys to table this
25 ordinance. This cannot be because obviously there is

R. Moreau

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1 going to be litigation. This is completely a conflict
2 of interest. And -- and especially if you guys are
3 voting four to three over that. This needs to be
4 tabled until you can get over that. You need a further
5 legal opinion from people outside --

6 MAYOR KANITRA: Thank you.

7 MR. MOREAU: -- Kevin's office.

8 MAYOR KANITRA: And your three minutes
9 is up, Doctor.

10 Thank you very much.

11 MR. MOREAU: All right. Thank you,
12 Paul.

13 MAYOR KANITRA: Okay. Hearing no one,
14 is there a motion to close and adopt?

15 COUNCILWOMAN TESTA: A motion to close
16 and adopt.

17 COUNCILMAN VITALE: I'll second that.

18 MS. FARRELL: All right. Councilman
19 Vitale.

20 COUNCILMAN VITALE: Yes.

21 MS. FARRELL: Councilwoman Testa.

22 COUNCILWOMAN TESTA: Yes.

23 MS. FARRELL: Councilwoman Byrnes.

24 COUNCILWOMAN BYRNES: Yes.

25 MS. FARRELL: Councilman Cortes.

1 COUNCILMAN CORTES: Before I vote I'm
2 going to say I'm not in favor of bad things happening
3 on the boardwalk and on the beach. I love the town
4 contrary to the Mayor and his little rant before. And
5 I take really offense to that saying that I don't do
6 anything. My -- I'm not going to go on, but my track
7 record over the past eight years and all my elections
8 and reelections speak volumes.

9 I cannot vote yes for this. I'm voting
10 no because of the way it's written. I've made that
11 clear. We are governing private property's hours of
12 operation and who they can hire. And other towns, like
13 our attorney alluded to, own their beaches in the
14 entirety. We do not.

15 So I vote no.

16 MS. FARRELL: Councilman Santanello.

17 COUNCILMAN SANTANELLO: No.

18 MS. FARRELL: Councilman Migut.

19 COUNCIL PRESIDENT MIGUT: I just want
20 to say I believe there are numerous constitutional and
21 statutory flaws with this ordinance. It takes rules
22 for public property and imposes them on private
23 property. I have a problem with that. It's the same
24 reason I voted against the Tree Ordinance. It's
25 government overreach.

1 Also, I've had a number of discussions
2 with residents in favor of the ordinance believing it
3 can discourage people of different ethnicities from
4 visiting the town. The intent to change the type of
5 people who visit the town in terms of ethnicity and
6 (indiscernible) status is not a proper function of
7 government.

8 No.

9 MAYOR KANITRA: That sounds like it was
10 drafted by somebody.

11 MS. FARRELL: Mayor Kanitra.

12 MAYOR KANITRA: Today the governing
13 body received a letter from one beach operator's
14 attorney timed to conveniently hit just a few hours
15 before this vote. As it was emailed to the entire
16 governing body, it's now considered public record, and
17 I'm asking the Borough Clerk to attach it to the
18 minutes for this meeting.

19 The first part of this letter is where
20 they threaten to sue us if we don't back down and do
21 exactly as they say, yada, yada, yada. The second part
22 goes on to say just how the beach party was really no
23 big deal and there's no bad or slovenly behavior on the
24 beaches. Our Borough Attorney has read this letter and
25 explains just how baseless it is. But it still is an

D. Cavagnaro

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1 entertaining read, and I encourage everyone to review
2 it when they get a chance.

3 That all said, I'm going to vote yes
4 because I'm not going to sell out my hometown.

5 MS. FARRELL: Okay. So this ordinance
6 has passed.

7 The next ordinance is Ordinance 2020-
8 13, An Ordinance Of The Borough Of Point Pleasant
9 Beach, Amending Chapter III, Police Regulations,
10 Subchapter 8, Waste Materials And Collections, Of The
11 Revised General Ordinances Of The Borough Of Point
12 Pleasant Beach To Further Regulate The Use Of Bags As
13 Receptacles For Trash Left For Curbside Pick Up.

14 MAYOR KANITRA: Okay. Opening public
15 participation.

16 MR. CAVAGNARO: Dave Cavagnaro, 118
17 Parkway.

18 COUNCILMAN CORTES: Go ahead, Dave.

19 MR. CAVAGNARO: Oh, okay. I wasn't
20 sure if I was off or not.

21 I understand what you're doing with the
22 ordinance and I appreciate it. My only concern is with
23 the public works employees when I see them lifting a
24 pail and having to turn it upside-down to get it over
25 the back of a truck. That's a big strain. And a bag

D. Cavagnaro/B. Rinaolo

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1 is much easier for them to sling. So I would only ask
2 going forward that you monitor the health conditions of
3 our public works employees. And if it turns out that
4 they're getting a lot of back issues from lifting a lot
5 of garbage pails, possibly reconsider down the road
6 adding more garbage bags.

7 COUNCILMAN CORTES: Good point. Very
8 good, Dave.

9 MR. CAVAGNARO: Thank you.

10 MR. RINAOLO: Bob Rinaolo.

11 Can you hear me?

12 MAYOR KANITRA: Yep.

13 MR. RINAOLO: Bob Rinaolo, 1411
14 Oceanfront.

15 MS. FARRELL: I'm sorry. Would you
16 please restate your name.

17 MR. RINAOLO: Bob Rinaolo,
18 R-i-n-a-o-l-o, 1411 Oceanfront.

19 MS. FARRELL: Thank you.

20 MR. RINAOLO: I'm a nonresident so, you
21 know, I generally come on Friday, go home on Sunday.
22 Sunday night, if I put my garbage out in cans, the cans
23 will remain there until Friday when I return. I don't
24 have a neighbor who can bring the cans in for me. I
25 made a couple of suggestions in an email that I sent to

B. Rinaolo

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1 (indiscernible) and it was circulated to a number of
2 you. Maybe a dumpster over at the recycling center
3 where we can bring our garbage rather than have that
4 can sit outside all week. And -- or another suggestion
5 that I sent over to Caryn Byrnes, which was, you know,
6 I would be willing to pay to have the trash collector
7 bring the can back into my yard. I realize -- I -- I
8 get the idea that it's a can, but I've got to tell you
9 in 38 years I've never had my garbage broken into by
10 any birds or critters or anything. So I don't see the
11 reason for it, and it is much easier.

12 I also have a garbage compactor which
13 creates a big block of garbage in a heavy-duty plastic
14 bag. To pick up that bag and to put it in a can and
15 then have the trash collectors lift up that can just to
16 dump out one -- one block of garbage, maybe 40 pounds
17 worth, doesn't seem to be right and --

18 MAYOR KANITRA: Can I could just --
19 sorry. Bob, all I would suggest if you were willing to
20 pay the DPW, could you just find a local kid to bring
21 it in or out for you once a week and pay him ten bucks?

22 MR. RINAOLO: Unfortunately, I don't
23 have that option. But I wish I did. I wish I had a
24 neighbor who was here to do it for me, but both my
25 neighbors are not here. You know, this also applies to

B. Rinaolo

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1 people who rent their property. On Saturday when
2 there's change-over, they generate garbage that goes
3 out by the curb at noon on Saturday and stays there
4 till Monday morning. And that garbage, if we had the
5 option of going to a dumpster somewhere -- the
6 recycling center would be the likely -- you know, that
7 garbage would also be -- you know, the people that
8 clean houses can bring it up to the recycling center
9 and dispose of it.

10 COUNCILMAN CORTES: Bob, I'll -- I'll
11 take up a discussion with John Trout, our
12 superintendent over at DPW tomorrow, and see if -- if a
13 dumpster is possible or feasible. And it would have to
14 be limited, though, so it wouldn't be overflowing.

15 You know, Mayor, I'll do that. I'll
16 check with John Trout.

17 MAYOR KANITRA: Thank you.

18 MR. RINAOLO: Thank you very much.

19 MR. CASTIN: Can't he just put his
20 garbage out in a plastic bag?

21 MAYOR KANITRA: No. That's the whole
22 point of the ordinance, Vince.

23 MR. CASTIN: I know, a plastic -- a
24 black plastic bag, no?

25 MAYOR KANITRA: They tear those open

C. Orlando

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1 too.

2 All right. Never mind.

3 Anybody else?

4 MS. ORLANDO: Yes.

5 Christine Orlando, 300 (indiscernible)
6 Philadelphia Avenue.

7 MAYOR KANITRA: Hello.

8 MS. ORLANDO: Hi, Mayor.

9 I -- I would appreciate that also
10 because we're down on the weekends, and even when we're
11 not down, our neighbor puts her plastic bags on our
12 lawn --

13 MAYOR KANITRA: Okay.

14 MS. ORLANDO: -- for pickup. So I
15 don't want to be fined if someone else is putting their
16 garbage on my lawn. Typically, I take, like, my
17 recycling home, back home. But when you're down on the
18 weekend, it is hard to -- to bring the garbage cans in.
19 I would also appreciate it if there were a place to
20 bring it.

21 Thank you.

22 MAYOR KANITRA: Maybe we can even leave
23 something outside of the gates of DPW if they're
24 closed, just like a big dumpster or something like
25 that. But Councilman Cortes will look into it.

C. Orlando/D. Betten

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1 COUNCILMAN CORTES: I'll look into it,
2 yeah.

3 MS. ORLANDO: Thank you.

4 COUNCILMAN CORTES: It would have to be
5 limited. You know, I don't know how. But I'll look
6 into it with John. I'll check it out.

7 MS. ORLANDO: Thank you.

8 MAYOR KANITRA: Okay. Hearing no more
9 public comment, I'd make a motion -- can somebody make
10 a motion to --

11 MR. BETTEN: David Betten.

12 MAYOR KANITRA: Sorry, was there was
13 a --

14 MR. BETTEN: I'm sorry. May I still
15 make a comment?

16 MAYOR KANITRA: Oh, yeah. Go ahead.

17 MR. BETTEN: I'm sorry.

18 David Betten, 400 New Jersey Avenue.

19 Thanks, everyone.

20 MS. FARRELL: Was that Benton,
21 B-e-n-t-o-n?

22 MR. BETTEN: B-e-t-t-e-n.

23 Thank you.

24 If I read the ordinance correctly,
25 which I may have not, I can put up to five containers

C. Orlando/D. Betten

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1 outside before I can put a garbage bag. Is that
2 correct?

3 MAYOR KANITRA: No. You can have a
4 maximum of five, but you can't put a bag by itself. If
5 you wanted to fill a trash bag -- a trash bin with bags
6 and there was one overflow, you could do that. If you
7 wanted to fill two or three and have one overflow, you
8 could do that, but you can't have more than five trash
9 cans.

10 MR. BETTEN: But I'm only allowed one
11 overflow bag?

12 MAYOR KANITRA: Yes.

13 MR. BETTEN: All right.

14 A MALE VOICE: Or one bag altogether?

15 MR. RIORDAN: Only one bag.

16 MR. BETTEN: I understand now. Thank
17 you.

18 The only thing that I would ask is that
19 you consider two bags. Other than that, I'm onboard.

20 COUNCILMAN CORTES: If I'm correct, you
21 know, reading it, it's one bag only but only with a
22 container, correct?

23 MR. RIORDAN: That is correct.

24 COUNCILMAN CORTES: So you --

25 MR. RIORDAN: The maximum -- go ahead,

D. Betten

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1 Andy, I'm sorry.

2 COUNCILMAN CORTES: You can't put one
3 bag out alone by itself.

4 MAYOR KANITRA: Correct.

5 MR. RIORDAN: No one bag out alone.
6 And the maximum you can put out is five cans and one
7 bag.

8 MR. BETTEN: Yeah, I mean, just for the
9 sake of -- of parties and household items that, you
10 know, if you're renovating or something like that, like
11 minor things, that -- you know, I -- I have two cans
12 myself. No big deal. That's more than adequate on
13 most days. But, you know, on the rare occasion that I
14 have a party, the two cans and a bag would never, ever
15 be enough. And two bags and two cans, you know, I
16 could always make that work. I just think one bag is
17 just not enough. It's my opinion only.

18 Thank you.

19 MAYOR KANITRA: Thank you.

20 Okay. Anybody else?

21 Is there a motion to close and adopt?

22 COUNCILMAN SANTANELLO: I'll make a
23 motion to close and adopt.

24 MAYOR KANITRA: Thank you.

25 COUNCILWOMAN TESTA: I'll second.

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1 MS. FARRELL: Was that Councilman
2 Santanello?

3 COUNCILMAN SANTANELLO: Yes.

4 MS. FARRELL: Who made the second?

5 COUNCILWOMAN TESTA: Arlene, Councilman
6 Testa -- Councilwoman Testa.

7 MS. FARRELL: Thank you, Councilwoman.
8 Councilman Vitale.

9 COUNCILMAN VITALE: Yes.

10 MS. FARRELL: Councilwoman Testa.

11 COUNCILWOMAN TESTA: Yes.

12 MS. FARRELL: Councilwoman Byrnes.

13 COUNCILWOMAN BYRNES: Yes.

14 MS. FARRELL: Councilman Cortes.

15 COUNCILMAN CORTES: Yes.

16 MS. FARRELL: Councilman Santanello.

17 COUNCILMAN SANTANELLO: Yeah.

18 MS. FARRELL: Councilman Migut.

19 COUNCIL PRESIDENT MIGUT: Yes.

20 MS. FARRELL: Okay. So Ordinance
21 2020-13 has passed.

22 Ordinance 2020-14 -- on for second
23 reading -- An Ordinance Of The Borough Of Point
24 Pleasant Beach, In The County Of Ocean, New Jersey,
25 Providing For Various Capital Improvements For The

1 Borough Of Point Pleasant Beach On Appropriating
2 \$1,951,100, Therefore, And Providing For The Issuance
3 Of \$1,853,545 In General Improvement Bonds Or Notes Of
4 The Borough Of Point Pleasant Beach To Finance The
5 Same.

6 MAYOR KANITRA: Okay. Open to public
7 comment. Is there any comment on this?

8 COUNCIL PRESIDENT MIGUT: Motion to
9 close and adopt.

10 COUNCILMAN CORTES: Second.

11 MS. FARRELL: Thank you.

12 That was you, Andy, who seconded,
13 correct?

14 COUNCILMAN CORTES: Correct.

15 MS. FARRELL: Thank you.

16 Councilman Vitale.

17 COUNCILMAN VITALE: Yes.

18 MS. FARRELL: Councilwoman Testa.

19 COUNCILWOMAN TESTA: Yes.

20 MS. FARRELL: Councilwoman Byrnes.

21 COUNCILWOMAN BYRNES: Yes.

22 MS. FARRELL: Councilman Cortes.

23 COUNCILMAN CORTES: Yes.

24 MS. FARRELL: Councilman Santanello.

25 COUNCILMAN SANTANELLO: Yes.

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1 MS. FARRELL: Councilman Migut.

2 COUNCIL PRESIDENT MIGUT: Yes.

3 MS. FARRELL: Okay. So Ordinance
4 2020-14 has been adopted.

5 We have Ordinance 2020-15 on for first
6 reading. An Ordinance Of The Borough Of Point Pleasant
7 Beach Amending Chapter III, Police Regulations, Of The
8 Revised General Ordinances Of The Borough Of Point
9 Pleasant Beach.

10 MAYOR KANITRA: Okay. Opening public
11 participation.

12 COUNCILMAN CORTES: No, first reading,
13 Mayor.

14 MAYOR KANITRA: Oh, first reading.

15 MR. RIORDAN: First reading --

16 MAYOR KANITRA: Sorry.

17 MR. RIORDAN: -- you just need a
18 motion.

19 COUNCILMAN SANTANELLO: I'll make a
20 motion.

21 COUNCILMAN CORTES: I'll second.

22 MS. FARRELL: Okay. That was
23 Councilman Santanello and Councilman Cortes.

24 COUNCILMAN CORTES: Correct.

25 COUNCILMAN SANTANELLO: Yes.

R. Moreau

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1 MS. FARRELL: Councilman Vitale.

2 COUNCILMAN VITALE: Yes.

3 MS. FARRELL: Councilwoman Testa.

4 COUNCILWOMAN TESTA: Yes.

5 MS. FARRELL: Councilwoman Byrnes.

6 COUNCILWOMAN BYRNES: Yes.

7 MS. FARRELL: Councilman Cortes.

8 COUNCILMAN CORTES: Yes.

9 MS. FARRELL: Councilman Santanello.

10 COUNCILMAN SANTANELLO: Yes.

11 MS. FARRELL: Councilman Migut.

12 COUNCIL PRESIDENT MIGUT: Yes.

13 MS. FARRELL: Okay. The public hearing
14 will be on August 18th.

15 MAYOR KANITRA: Okay. Second public
16 participation. Is there anybody?

17 MR. MOREAU: Yeah, Paul.

18 Rob Moreau.

19 MAYOR KANITRA: Dr. Moreau.

20 MR. MOREAU: I -- I can hear that in
21 your voice. I apologize.

22 The -- on the newly adopted Beach
23 Ordinance, it was 21-1.4, Subsection 13, and it reads,
24 quote "molest or disturb any person in the peaceful
25 enjoyment of said beach or facilities." And this is

R. Moreau

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1 going to be enforced by the police. And so if some --
2 if a gay couple kisses on the beach and that bothers
3 their neighbors, you have just memorialized that the
4 police will step in.

5 MAYOR KANITRA: That would be a --

6 MR. RIORDAN: No.

7 (Indiscernible -- simultaneous
8 conversations.)

9 MR. MOREAU: Kevin, can I finish,
10 please. You can -- you can talk after me. Please
11 don't talk over me.

12 MR. RIORDAN: Rob, I -- I can't let you
13 sit here and say that those words --

14 MR. MOREAU: This is public --

15 MR. RIORDAN: They have never meant
16 that. And it's not the police who enforce it. It's a
17 -- it's a judge.

18 MR. MOREAU: This is public
19 participation. I may be spouting horrible things but I
20 -- you can listen to it and then we'll talk just like
21 normal adults.

22 Anyway, a black family may be -- or a
23 white family may be disturbed by a black family and
24 vice-versa. You are memorializing that the police will
25 take care of that complaint.

R. Moreau

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1 So I know you hated Councilman Migut's
2 prepared speech, but it was spot on, and this is what
3 we've adopted.

4 Now, Kevin, you're free to speak.

5 MAYOR KANITRA: I'll speak, actually.

6 MR. RIORDAN: No, no. Actually, why
7 don't we let the Captain speak, Mr. Mayor.

8 Captain, is that how you're going to
9 enforce the ordinance?

10 CAPTAIN: No, it is not how it would be
11 -- how it will be enforced.

12 MR. MOREAU: But it's how it's written.

13 MR. RIORDAN: Thank you, Captain.

14 MR. MOREAU: But it's how it's written.
15 That's how it is written.

16 MAYOR KANITRA: Doctor, any
17 discrimination in Point Pleasant Beach is not going to
18 be tolerated, you know.

19 MR. MOREAU: Paul, I --

20 MAYOR KANITRA: I'm the head of the
21 governing body. I'm the CEO of the town. I'm a 40-
22 year old guy. I'm not -- I'm not some, you know, some
23 -- some relic or somebody from, you know, the 1700s.

24 MR. RIORDAN: Easy, Mr. Mayor.

25 MAYOR KANITRA: We won't tolerate any

R. Moreau/K. Allen

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1 discrimination in this town.

2 MR. MOREAU: And -- and, Paul, I know
3 you won't. I know your heart. What I'm saying is, as
4 the way this is written and adopted, you have
5 memorialized it to be okay. That's all I'm saying. I
6 am not casting aspersions on anyone. This is a very
7 poorly written ordinance, and it's going to invite
8 lawsuits.

9 MAYOR KANITRA: All right. Anybody
10 else?

11 MS. ALLEN: Yeah. It's Kim, Kim Allen,
12 146 Ocean Avenue.

13 I just want to say thank you for the
14 garbage ordinance. I'm sick of looking at everyone's
15 trash in the street in front of our house.

16 And I just want to encourage the idea
17 of the dumpster at public works, because the bane of my
18 existence at Barefoot Real Estate is tenants' garbage
19 on Saturdays. So it's a problem that we've had for
20 years. No one has been able to figure it out. And a
21 simple dumpster would basically be the easiest
22 solution. So please look into that.

23 Thank you.

24 COUNCILMAN CORTES: I definitely will.

25 MS. ALLEN: Good night.

T. Highton

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1 MR. HIGHTON: Hello.

2 MAYOR KANITRA: Yes.

3 MR. HIGHTON: Tom Highton, 400 Central
4 Avenue.

5 MAYOR KANITRA: Hey, Tom.

6 MR. HIGHTON: I just want to say thank
7 you for finally addressing the issue at Central and St.
8 Louis. I hope that resolution of having some sort of
9 a, you know, speed hump or whatever else, takes place
10 sooner than later. It's getting precarious to watch
11 some of these cars whiz by kids on beach cruisers and
12 whatnot.

13 I want to thank the Council for
14 approving the measure to address some of the quality-
15 of-life concerns on the boardwalk. I personally don't
16 think they go far enough.

17 To Councilman Santanello, your theory
18 that somehow we have become a town that is family-
19 oriented, that every car that pulls up in this town,
20 every train that unloads is somehow filled with
21 righteous families who are looking to do right by Point
22 Pleasant Beach is simply untrue. And I can point to
23 any number of instances, whether it's me sending my
24 seven-year-old into the house because the smell of
25 marijuana smoke is so thick bellowing over the fence

T. Highton

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1 that I don't want him out there, whether it's the fact
2 that we have again endless times where there is just
3 endless poor language, foul language coming over the
4 fence. Or, Councilman, if you'd like to stop by my
5 house and just sit on my porch and witness this
6 sometime, on the Fourth of July, the good, wholesome
7 families of four 25-year-olds, who looked me in the eye
8 while throwing Burger King on my lawn. Or, better
9 still, come on over and explain to my son why, again,
10 at seven years old, on Friday night he had to witness a
11 couple having oral sex in their car in front of my
12 house.

13 So if those are the good, wholesome
14 families that you espouse all of the virtue to and how
15 great all of the downtown businesses who do such great
16 things for us, the boardwalk businesses pay all of the
17 taxes that somehow offsets my tax bill which they
18 don't, and, of course, to the attorney for the Storino
19 family who says that how dare we impugn the bad name of
20 those boardwalk businesses, come on over, explain to me
21 how the tax benefit, the net tax benefit of a family
22 who packs or goes to the beach, eats food out that
23 cooler, pays their beach tag fees, comes back to the
24 nonpaid parking spot in front of my house and then
25 drives away, tell me how that benefits me as a

T. Highton/J. Rock

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1 taxpayer. I'll take any explanation that you have.

2 MAYOR KANITRA: Thank you, Tom.

3 MR. HIGHTON: Thank you.

4 Anyone else?

5 MS. ROCK: Hi.

6 This is Joylene Rock, 215 Trenton
7 Avenue.

8 I'm not even sure if I can speak to
9 this right now, so stop me if it's not okay. I'm just
10 chiming in about the skate park. I know there was some
11 question as to whether BMX bikes or scooters would be
12 allowed. I was hoping they'd allow scooters because I
13 see most skate parks do have scooters. They're similar
14 to the skateboard. They just have sort of a handle on
15 them. A lot of the younger kids use them, a lot of
16 kids who have balancing issues and rely on those, one
17 being my son, who enjoys going to skate parks and using
18 the scooter. I would hope that maybe that you guys
19 would consider that.

20 That's it.

21 And thank you for the great work,
22 everyone. I appreciate it.

23 MS. TESTA: Thank you, Joylene.

24 MAYOR KANITRA: And we can look into
25 that.

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1 MAYOR KANITRA: Okay. Who's next?
2 Okay. Is there a motion to close and
3 adjourn?
4 MS. TESTA: Motion to close and
5 adjourn.
6 COUNCILMAN VITALE: I'll second that.
7 MAYOR KANITRA: Okay.
8 MS. FARRELL: All in favor?
9 COUNCIL MEMBERS: Aye.
10 MS. FARRELL: Good night.
11 COUNCILWOMAN TESTA: Good night. Thank
12 you, everyone.
13 COUNCILWOMAN BYRNES: Good night,
14 everybody.
15 (Whereupon, the meeting adjourns at
16 9:33 p.m.)

C E R T I F I C A T E

I, CAROL E. BLACKLER, Certified Court Transcriber, AOC #336, do hereby certify the foregoing transcript to have been prepared from a digital recording made by COLE TRANSCRIPTION, L.L.C. and is true and accurate to the best of my knowledge and ability.

/s/ Carol E. Blackler
Carol E. Blackler AOC #336
COLE TRANSCRIPTION, L.L.C.
Dated: August 13, 2020

Civil Case Information Statement

Case Details: OCEAN | Civil Part Docket# L-002009-20

Case Caption: JENKINSON'S PAVILION VS BOROUGH
OF PT. PLEAS AN

Case Initiation Date: 08/28/2020

Attorney Name: RONALD S GASIOROWSKI

Firm Name: GASIOROWSKI & HOLOBINKO

Address: 54 BROAD STREET

RED BANK NJ 077010000

Phone: 7322129930

Name of Party: PLAINTIFF : Jenkinson's Pavilion

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: CIVIL RIGHTS

Document Type: Verified Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Are sexual abuse claims alleged by: Jenkinson's Pavilion? NO

Are sexual abuse claims alleged by: Anthony Storino? NO

Are sexual abuse claims alleged by: Frank Storino? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

08/28/2020

Dated

/s/ RONALD S GASIOROWSKI

Signed

